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Choate, Rufus.

Abstract of the arguments.

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ABSTRACT OF THE ARGUMENTS

OF THE

HON. RUFUS CHOATE

AND

CHARLES THEO. RUSSELL, ESQ.

FOR THE PETITIONERS,

ON THE PETITIONS OF DAVID PINGREE, AND OVER 3,000 OTHER
LEGAL VOTERS,

FOR A RAIL-ROAD

FROM SALEM TO MALDEN,

BEFORE THE

COMMITTEE ON RAILWAYS AND CANALS,

OF THE

MASSACHUSETTS LEGISLATURE....SESSION 1846.

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REPORTED FOR THE PETITIONERS.  
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BOSTON:

FROM THE PRESS OF HEWES & WATSON,

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1846.

COUNSEL FOR THE PETITIONERS.

HON. RUFUS CHOATE,
CHARLES THEO. RUSSELL, Esq.

COUNSEL FOR THE EASTERN RAIL-ROAD CO. REMONSTRANTS.

E. H. DERBY, Esq.
N. J. LORD, Esq.

IN preparing the abstract of Mr. RUSSELL's argument, the only attempt has been to state, successively, the points made and enforced, separating them mainly from the arguments and illustrations by which they were sustained in debate. Liberty has been taken to develop some of them a little more fully, as printed, than they were stated to the committee, but without changing their principles or general character.

The argument of Mr. CHOATE is published entire from the Reporter's manuscript, and without the revision of Mr. C. in the slightest degree, his engagements preventing his even looking over the manuscript or proofs.

ARGUMENTS.

ABSTRACT OF THE ARGUMENTS of the HON. RUFUS CHOATE and CHAS. THEO. RUSSELL, Esq., counsel for the petitioners, on the petition of David Pingree and others, for a Rail-road from Salem to Boston, before the Committee on Railways and Canals of the Massachusetts Legislature, session of 1846.

MR. RUSSELL'S OPENING.

This is an application of over 3,000 legal voters of Essex County, and two of the largest towns of that, and one of Middlesex County,* in their corporate capacity, by votes nearly or quite unanimous, who seek authority to construct a rail-road from North Salem, through Danvers, West Lynn, Saugus, and the village of Malden, to the Boston and Maine Rail-road, in the latter town.

There are already two rail-roads, the Eastern and the Boston and Maine, nearly parallel, running from Boston to New Hampshire and Maine. Neither of these, however, pass through the large and flourishing town of Danvers, or the town of Saugus, or open for them a rail-road communication with Boston or Salem. One road approaches them nearest at Salem, the other at Malden. Thus intermediate, the petitioners ask to branch to the latter and elder road, and thus provide for themselves a rail-road to Boston.

To obtain this certainly not large grant, they must show ;

* These towns are Lynn, Danvers, and Malden. See Appendix, D, E, I, and K. Saugus also voted to the same effect last year, and sends petitions of all her legal voters this. In addition, some 2,000 ladies have asked to be relieved of the nuisance of the ferry at East Boston.

1. A sufficient public exigency.
2. A feasible route for their proposed road.

1. A sufficient public exigency.

It has been long settled that the Legislature are the exclusive judges of what constitutes an exigency.—*Commonwealth vs. Breed*, 4 Pick., 460.

And a long series of Legislative adjudications have conclusively settled what is a public exigency, within the terms of the Constitution, and the general public law antecedent to, and incorporated in, that instrument.

This is more particularly shown in the legislation relating to mills.

Here there has been, for years, the right to take private property without the owner's consent.

In 1709, an act was passed "for the upholding and regulating of mills." In 1714, an additional act for the same purpose, by which the owners were authorized to take or flow private property for the use of their mills. In 1796, an act consolidating these, and which was subsequently incorporated into the Revised Statutes, providing that "any person may erect and maintain a water-mill and dam," &c.

Undoubtedly, in the beginning, a mill owner was held to show that his mill was for the public benefit, and met a great public necessity. Then it came to be settled, in the language of the early acts, that mills were "for the use of the town," or "a considerable neighborhood," until, finally, in our day, a man need not show that his mill benefits anybody in particular, it being the settled policy of the Commonwealth that mills are in themselves, and necessarily, beneficial to the community.

The same, in the progress of events, is coming to be, if it be not already true, of rail-roads. They are, and are to be, the great *thoroughfares and highways of the country*. One extended from village to village, is, in its nature a public benefit. Their true relation and effect is well described in the *Westminster Review* for December, 1845, p. 259.

“ There is but little analogy between South Sea and Mississippi schemes, and railway projects. Let us clearly understand our position. We have arrived at a new epoch in the history of the world. A new element of civilization has been developed. As was the invention of letters, as was the printing press, as was the steam-engine, so is the railway in the affairs of mankind. It is a revolution among nations. A moral revolution, as affecting the diffusion of knowledge, the interchange of social relations, the perpetuation of peace, the extension of commerce ; *and a revolution in all the relations of property.*

“ We refer, by the latter observation, to the cheapening of all kinds of commodities by the facilities of carriage, and the saving of time on the part of producers, afforded by railways, and especially to the influence of railways upon the value of houses and land. Time was when the inhabitants of towns rose almost in arms to repel railway companies as an hostile invasion. Now what has been discovered ? The towns without railways find themselves distanced, in the race of competition, by their neighbors. Manufacturers, with no other than the old means of transport, cannot execute their orders either as expeditiously or as cheaply as the manufacturers of towns situated upon a line. Those who travel slow, exclaim, ‘ We are ruined by those who travel fast ; we also must, therefore, travel fast.’ And hence the demand for railways to connect every town of the united kingdom is not, to a very great extent, a mere mania for speculation in scrip ; it is a real *bond fide* want of society, which, sooner or later, must be supplied.”

So, again, the legislation of the Commonwealth, in regard to ferries, roads, and bridges, has defined clearly what is meant by a public exigency.

And the result is this, that there must be a just and fair proportion between the direct and positive injury done, and the benefit obtained.

Remote and less direct injuries are rather reasons of public policy, than reasons to remove the exigency.

Such injuries are the depression of lands or property in one place, and their rise in another, by the grant of mills, ferries, bridges, and roads; and the effect, in turn, of other similar grants upon those already made.

A rail-road depresses lands and property of certain descriptions, not on its line. These seek restoration by new rail-roads, and the latter, in turn, depress, more or less, the value of former roads. These considerations act upon the discretion of the Legislature, but do not enter at all into the question of exigency. And whether the effect of any proposed grant upon the value of rail-road property in its vicinity is to have more consideration than its effect upon any other private property, is questionable.

Taking this definition of an exigency, what is a just proportion between the injury done and benefit obtained, depends upon the circumstances of each particular case. The very advance of the rail-road system has, in many cases, created an overwhelming exigency for its further extension. Towns and communities, by the building of rail-roads to their neighbors, and not themselves, have lost their original and comparative standing. Their lands are less valuable—their water-power is, and is becoming, idle—their manufactures droop. All business flies to the lines of existing railways. The right to restoration, to equality of advantages, is an exigency. And if existing roads are remotely injured, to restore what they have destroyed, it is the same inevitable, consequential injury they have caused throughout the Commonwealth,—and they must abide by the results they have so often created.

But while the exigency depends on the particular circumstances of each case, there is *one case*, which has always been recognized as warranting and demanding the favorable notice of the State.

The superior facilities of a bridge, as a means of communication, over a ferry, have ever been held a sufficient exigency, for a public grant, in this Commonwealth.

In 1631, the Charles River ferry, from Boston to Charlestown, was established. It continued to 1785, and at that time was one of the best regulated ferries in the country, and bore a much nearer relation to the then modes of travel, than a steam ferry now does to a rail-road.

Boston had then a population of 17,000, and Charlestown one of 1,200.

What, then, was the exigency for the old Charles River bridge?

Nothing but its *superior facilities over the ferry*. And on this ground, and this alone, its proprietors were incorporated, with large powers, *against the remonstrance*, and to the *annihilation*, of the ferry.

But follow its history. In 1828, the population of Boston was 60,000, and Charlestown 8,000, with a good bridge, accommodating all its travel quite as well as the West Boston bridge now does its travel.

What, then, was the exigency for Warren bridge? *The superior facility of a double over a single avenue*, and this alone. And this legislation was the deliberate result of a five years' contest in the Legislature, and has passed under the revision of the highest National and State judicatures, and its principles are the settled law of the country.

Legislatively and judicially, then, the superior facilities of a bridge over a ferry, are held an exigency to warrant a *conflicting, contested* grant.

These petitioners stand upon this ground. Like Russell and his associates in 1785, they ask a permanent bridge entrance for themselves and their children to the city. They stand on ground *infinitely broader* than did the petitioners for Warren bridge, in 1828.

It can make no difference that travellers are brought in masses to the ferry, instead, as of old, coming singly. The various difficulties and delays of this mode of conveyance are only increased by this.

Again, in 1844, the Boston and Maine Rail-road entered the Boston and Lowell Rail-road at Wilmington, paying it

some \$30,000 annually. Here, then, was a continuous road to Boston, with no defect,—the former road having been originally chartered as *a branch* of the latter. And yet the Legislature of that year authorized a new road from Wilmington to Boston, running its whole length near to, and parallel with, the Boston and Lowell, and taking \$30,000 at once from its annual business.

Upon what exigency?

1. The acquisition of a more central depot in the city.
2. The avoidance of detention at the junction of the two roads.

3. The accommodation of four lateral towns to the Boston and Lowell Rail-road, the whole population of which not much exceeds that of Danvers alone.

Upon an exigency, infinitely greater than any or all of these, stand these petitioners, and upon the showing of this exigency, both upon principle and large precedent, they confidently appeal to the Legislature for the grant they ask.

They ask that there may be granted to them, the same facilities to reach the metropolis, by a permanent bridge structure, which have been granted to all other portions of the Commonwealth.

They claim equality of the East with the West, in grants of the government; that its favors shall be dispensed with an impartial hand, and even, exact justice to all; and under this general view they assert, and will maintain:

1. That they, Danvers, West Lynn, and Saugus, by the concessions of friend and foe, of the fathers and compeers of the Eastern Rail-road Company, of that Company itself, by legislative report and legislative decision, are richly entitled to some, and great additional rail-road facilities:

2. That Danvers alone is the third town in valuation, and the fifth in population, in the county of Essex; that it is the largest leather manufacturing town in the State; that, like its sisters of Lynn, Saugus, and Malden, it is active in all those branches of industry which especially require rail-road accommodations:

3. That neither Danvers nor Saugus, with a population of nearly eight thousand, have any direct rail-road communication with Boston or Salem ; and that West Lynn and Malden are but partially accommodated :

4. That the claims of Danvers to increase of rail-road accommodations, have been distinctly and repeatedly recognized, and most emphatically by the Committee on Railways and Canals, of the Legislature, at its last session, in the following extract from their report :

“ The Committee are of opinion that the great and increasing business of Danvers entitle that town to greater rail-road facilities than are now enjoyed. The industry, enterprise, and growing prosperity of this town is worthy of the highest commendation.”—*p. 3.*

5. That there are two modes proposed to meet this exigency, or want, of Danvers : One by a branch to the Eastern Rail-road, at Salem ; another by a branch to the Boston and Maine Rail-road, at Malden :

6. That the simple question now, is, Which of these is best for Danvers ? that the people of that town universally prefer the branch to Malden ; that, ordinarily, people are the best judges of their own interests ; and that the government, unless most serious obstacles intervene, will generally grant favors and facilities to their citizens, *in the way they prefer them* ; that this alone, other things being equal, would decide this question :

7. That a branch to Salem does not meet the exigency, because it connects their road with a ferry, for good reasons highly objectionable in a line of railway, and against which they protest :

8. That so objectionable, from its very nature, has the East Boston Ferry, like all ferries in a line of rail-road, proved, that were it an open question to-day, no man in his senses would think of locating the Eastern Rail-road in connection with it ; that there is *a great and increasing dissatisfaction* with this ferry, on the part of the travelling public ; that the Eastern Rail-road now, *not satisfying its*

old, cannot expect *new customers* ; and that it would be folly and madness in the people of Danvers, with the experience of ten years to guide them, to commit a similar blunder :

9. That it being thus an open question with Danvers, where her rail-road shall go, she wisely and naturally prefers to branch to one having no defects, to the risk of ever attempting what the Eastern Rail-road, with all its efforts, has failed to do, to satisfy the public with this ferry :

10. That two roads being thus to be reached, one having defects and the other none, she *cannot* perceive why it is not the *sensible course* to choose the latter ; that she cannot see why she should be debarred of her *deliberate, oft-expressed choice, and by mere arbitrary legislative power*, forced into perpetual vassalage to a ferry she abhors, and under which the whole public are increasingly restive :

11. That the objections to the ferry, as part of a railway communication, are obvious, and have often been, before and since the charter of the Eastern Rail-road, distinctly recognized by committees and legislative bodies, here and in England :

In his report, in 1833, on the petitions for a rail-road to Salem, the Hon. Charles Hudson, Chairman of the Committee on Railways and Canals, says :

“ But if ferry rights already existed, the Committee consider the connection of a rail-road with tide-water, a serious objection. The Winnissimmet route proposes to be elevated ten feet above high water mark. It appeared, in evidence before the committee, that the rise and fall of the tide was from ten to fifteen feet. This would present a serious obstacle to the safe, cheap, and rapid transportation of passengers and merchandise. The petitioners called a skilful engineer to inform us how the cars and engines, if the engines should cross the river, were to be taken from the boats to the road, and from the road to the boats. But after all the information that could be obtained, the Committee were not satisfied that it would not prove a

delay, and be attended with considerable expense, if not liability to accident."

The same gentleman, in his report, in 1836, when the Eastern Rail-road Company was chartered, says :

"All other things being equal, a permanent structure is, *in every respect, preferable to a ferry.* We should not hesitate a moment in expressing an opinion that *an additional mile* in distance, would be preferable to the trouble and inconvenience of a ferry, if this solid structure could be had at a reasonable expense, and could terminate in a central and convenient part of the city."

The British Board of Trade, in their report to Parliament, on the true line of Scottish railways, in 1845, say :

"Considered *merely* with reference to *time*, a short ferry would, generally speaking, INVOLVE A DELAY EQUIVALENT TO SEVERAL ADDITIONAL MILES OF TRAVELLING ON AN UNBROKEN LINE OF RAILWAY, a disadvantage which would be still further increased, if, as seems probable, the rate of railway travelling should, by the continued improvements in the construction of the locomotive engine, become considerably accelerated."

"This judgment of the Board of Trade was confirmed by the decision of the Legislature."—*West. Rev. Dec'r*, 1845, p. 266.

In a recent report to the present Legislature of Massachusetts, the Board of Rail-road Commissioners say of this very ferry, while speaking of the objects of a road prayed for from Chelsea to Boston :

"But another, and very desirable object, the petitioners claim, will be secured by it, viz.: Avoiding the ferry at the terminus of the Eastern Rail-road, which ferry is liable to precisely the same objections as is that of the Winnissimmet Company. It is by this road that a large portion of the residents on the eastern sea-board now travel to Boston ; and it was proved by a large number of witnesses from Boston, Chelsea, Salem, Bangor, and other places, that there is a prevalent opinion among persons

whose business obliges them to travel over this road, that the East Boston Ferry is an inconvenience of much moment, and that measures should be taken to avoid it, if possible ; that travellers living in the State of Maine, east of Berwick, where the Eastern unites with the Maine Extension, very often choose the latter road, and give as a reason for it, the trouble to be apprehended at the East Boston Ferry."

12. That the objections to the ferry are, among others, the great confusion, crowd, annoyance, and delay incident to a change from the cars to the boat, and the boat to the cars, where the passengers are in a crowd and rush, particularly uncomfortable to ladies and children ; the delay necessarily incident to this mode of travelling over a rail-road ; the time occupied in crossing this short ferry being equal to that of FOUR MILES OF RAILWAY ; the inconvenience of a crowd seating themselves in the cars, passengers not being able to go in advance to the depot, as on other roads ; the interruption and dangers to the ferry boat by ships crossing its track, in a crowded harbor and on deep water ; the delay and interruptions by ice in winter, and fogs in summer ; the passenger depending, in a considerable degree, on the state of the weather, for the security and rapidity of his arrival in the city ; the annoyance of a water motion to many ; the great cost of operating the ferry over the same length of rail-road, the operation of this ferry costing some seven thousand dollars annually, not including depreciation of boat ; and its termination at a depot on the extreme end of a wharf, far removed from the heart of population, and the main access to which is along Commercial wharf or street, crowded with merchandise and encumbrances :

13. That so great are these and other objections, to ferries, that the whole history of internal communication has been one of struggle to be rid of them ; that no better illustration of this can be found, than the bitter and incessant struggle of the citizens of Albany to rid themselves of

the ferry over the Hudson river, and the final building of the Troy and Greenbush Rail-road, *of six miles*, originally, it is believed, without a charter, for the purpose of running round this ferry ; that this progress is further illustrated by expensive outlays every where, to obtain permanent structures for travel over or under navigable waters, at the head of which stands the famed *Thames Tunnel*, commenced in 1826, and recently completed at an enormous expense :

14. That in addition to avoiding the ferry, the branch to Malden will greatly convene West Lynn, provide the only rail-road communication it can ever have to Saugus, an enterprising and manufacturing town of twelve hundred inhabitants, and largely accommodate Malden, whose inhabitants are alive to their interests in this respect, and are before the Committee :*

15. That it runs along the margin or near three of the most beautiful and purest ponds of water in the State, one alone of which exceeds the famed Wenham Lake in its purity, and will yield, annually, ninety-five thousand tons of ice, to which this road will open a profitable market ; that it also runs through thirty acres of the best clay land in the State, and within seven or eight miles of Boston, and which has, in contemplation of this facility, already excited the attention of brick makers, and promises large and profitable freight to the road, and increased business and activity to the town of its location :

16. That the Eastern Rail-road Company cannot set up the doings of the last Legislature as adjudicating the present application, because their own charter was refused by three successive Legislatures ; and because the *only decision* of last year, was TO REFUSE *to allow a branch to the Eastern Rail-road at Salem*, and to *refer* the question of the branch we ask, *to this Legislature*, where the petitioners are in vastly increased numbers ; that the adjudication of the Le-

* Since this hearing, Malden, at its annual March meeting, has, by a very large vote, resolved in favor of the road. See Appendix J.

gislature, if of any effect, is therefore merely to leave the branch road to Malden, which the petitioners ask, as *their only alternative*.

17. That this is an application arising in no speculation, or mere private interest; that it is the prayer of over THREE THOUSAND LEGAL VOTERS who have presented their petitions *this year*; that it is the wish of two of the largest towns in Essex county, deliberately, in the one nearly, and the other quite, unanimously, and recently expressed "in town meeting assembled;"* that all the petitioners, with three or four exceptions, of last year, are here on their former petitions, as urgent as ever for this grant, because the public necessity is as urgent as ever:

18. That the petitioners are ready to build the road forthwith, if granted:

19. That the Eastern Rail-road Company cannot justly complain of this grant as infringing any rights of theirs:

1. Because they took their own charter parallel to and against the remonstrance of the proprietors of another rail-road, now the Boston and Maine:

2. Because they took their charter *parallel to*, and *to the utter destruction*, and against the earnest and most vehement remonstrance, of the Salem turnpike and Chelsea bridge, costing, together, \$237,532 67, and half the stock being then owned by females, minors, insane persons, and charitable institutions:

3. Because, if it be said, this last was the necessary consequence of substituting a new for an old mode of conveyance, the answer is, that to the extent of all interference with the Eastern Rail-road, the road prayed for substitutes a vastly improved, for an old mode of conveyance, to wit.: a permanent bridge and rail-road, for an arm of the sea, and a steam ferry:

* Since the hearing, Malden has also been added to Lynn and Danvers; and during the hearing, SOME TWO THOUSAND LADIES joined their petitions to those already before the Committee. The petitions from Saugus include nearly or quite *every legal voter*, some two hundred and fifty, in that town.

4. Because they located their road with full knowledge of all the evils of a ferry, and knowingly run all risk of the consequent and complete dissatisfaction now existing :

5. Because they were invited, and pressed to every extreme, to locate their road originally through Danvers, and thus accommodate that town, to their own as well as the public benefit, but refused, and cannot now complain that the community, thus neglected, seeks to provide for itself what they declined to bestow ; and because these petitioners then remonstrated against their location, were themselves applicants for another road, and thus gave full notice to the Eastern Rail-road Company, that unless they were accommodated they might, and would, seek this route, and therefore that Company cannot complain that they have, without knowledge or complaint, been led into an erroneous or disastrous location of their road ; they must abide by all consequences of their deliberate action :

6. Because neither the Eastern Rail-road, nor any of its progenitors, have ever been before the public from 1831 down, but the friends of this, or a similar route, have been moving "*pari passu*" with them, and with the determination to move efficiently whenever a favorable opportunity should open, as it did by the construction of the Boston and Maine Extension Road, in 1844-5 :

7. Because the Eastern Rail-road Company has now no right to claim control over a population it originally passed on the other side, left to itself, and has never lifted a finger to accommodate ; and having had the opportunity for *ten years*, to pre-occupy this ground, and having been invited so to do, and refused, they have delayed too long to assert now any equitable or reasonable claim against the petitioners.

20. That, while it is not pretended, since the decision of the Charles River Bridge case, that there is any legal or constitutional objection to the grant asked, so the petitioners contend, for the reasons above stated, there is none that is reasonable or equitable ; and that to refuse this

grant, on any pretended, is such an unreasonable extension of claims on the part of corporations, as to hazard all just and fair protection to which they are entitled :

21. That, while it may be conceded that, where an existing road well accommodates all the people, and has no defect, and no new business is to be accommodated or better accommodated by a new road, it is not the true policy of the Legislature to grant other roads for *mere* competition. It is also asserted that, to refuse such grants, where there *are* want of accommodations, or defects, is a policy unjust, untrue, and disastrous ; that, to press this policy still further, and apply it to the selection of a stem for a branch, connecting that branch, by compulsion, with an inferior or defective road, in preference to a better or more favorite one, because to do the latter may produce remote or indirect competition, is oppressive, and cannot be sustained.

22. That the doctrines now maintained in Great Britain, on the subject of rail-roads conflicting with each other, go beyond those here contended for, and the settled policy of railway legislation there is more liberal than what we now ask.

A writer in the Westminster Review for September, 1844, says :

“ We think there can be little doubt of the tendency of existing railway companies to become a great amalgamated private monopoly, to which the only corrective is the construction of new lines, protecting the public by efficient clauses, or the voluntary surrender of the mischievous features of their monopoly to the revision of the Board of Trade.

“ As to the ‘ enterprise and patriotism,’ part of the question, alleged on the behalf of a shifting body of railway shareholders, it rather stirs our mirth than our logic. We have no more compassion for the losses of railway shareholders than we have for the losses of Welsh highway shareholders, or steamboat shareholders, or any other of the speculative tribes.”—p. 20.

“The object of the railway outcry is to maintain, not merely the right of property in the existing lines, and by amalgamation to make that property a monopoly, but to prevent any future competitive lines from being made. There are men of the Hudson mould, the ‘Napoleon of railways,’ as he has been aptly christened, who commit the Napoleon error, of only looking at the immediate, who see the practicability of what they wish, but do not see its future results. There are also men who would embargo the very winds of heaven, and make people pay tribute for breathing; they would ‘hide the sun with a blanket, and make us pay tribute for light.’ They would commit the grossest injustice, under the sanction of a law passed under the auspices of mixed design and ignorance, as though the earth had been made by men for the few, and not created by God for the many. But the law did not give an exclusive monopoly to the railway makers; it never contemplated a monopoly; it made express provisions to prevent a monopoly, though the wording was of that kind, that it provided for a species of competition, which could not be carried out, while the companies insisted on its literal acceptance.”—p. 21.

“Shallow-minded men are they who deem that this can endure, that a whole nation can be deprived of its just rights, for the benefit of a few. If, under any pretext of amalgamation, if even by law specially made, they could obtain the monopoly; if every line into London had a clause inserted in its act, that no more lines should ever be made, still the law could not be maintained. It would be a law robbing every man of his birthright, it would be a law to hedge round men’s dwellings, and make them pay a capitation tax for the privilege to go forth. Talk of corn laws! No law could be so iniquitous, as a law monopolising the virtual highways of the land. The despots of the highways would be like the robber barons of old, collecting black mail from passengers, for the privilege of passing by.”—p. 21.

“The Welsh riots are yet fresh in our remembrance, caused chiefly by the iniquitous exactions of the high roads. Rebecca and her daughters avenged the wrong, and ultimately procured redress. If the railways of England could once become what the highways of Wales were, the crisis might become so awful as to produce confiscation by violence. ‘Wild justice’ would avenge the wrongs of stimulated law.”—p. 21.

Says Mr. Baxendale, a distinguished friend and supporter of railways in England, in his testimony before the special committee on Railways, of the British Parliament, in 1844 :

“I have always considered that the roads of the country belonged altogether to the public, just as much as the light of heaven ; I therefore have invariably said, that leaving the whole of the roads of Great Britain as they would ultimately become in the hands of irresponsible parties, did not appear to me to be sound. I may be wrong, my ideas may be very prejudiced ; but such have been the views I have always entertained.”

Says an able writer, in the same distinguished Review, for Sept. 1845 :

“High prices have been maintained, till competition has been stimulated to the projection of new lines more direct than the old ones ; and then, when it was too late, down dropped the fares. With the reduction the traffic increased, and profits also, but too late to destroy competition. London and York direct, and London and Manchester direct, claim a share of the traffic that now passes over the rails of the London and Birmingham, and sooner or later they will have it : but not, therefore, does it follow that the London and Birmingham will lessen their total amount of traffic. Day by day, year by year, it accumulates like a rolling snowball, and will continue so to do so long as materials shall exist in our land to work up for various uses. No truth is more certain than that railways create or rather induce traffic, and every fresh line, unless a direct parallel at a very short distance, must help to increase the traffic

of others. Small is the respect we can entertain for railway rulers, when we contemplate their seeming ignorance of all philosophic rules of conduct ; wasting thousands on thousands in fruitless opposition to the public advantage ; wasting the very means which, if rightly applied, would enable them to improve their arrangements and reduce their fares.—p. 114.

“ The groundwork of objection made by the old lines to new ones is futile. It springs from a cramped perception. The earliest railways were made for the specific purpose of communication between two distant towns of large traffic—as Liverpool and Manchester, and the intermediate communication was but little heeded. The subsequent lines were constructed on similar principles, and for such traffic is the battle now waged. The true value and uses of railways have not yet dawned on men’s minds.”—p. 114.

“ And if the principles we have laid down be sound ones, why should not new lines be made to carry out these principles thereon, as well as putting them in practice on existing lines ? If our views be correct, the time will come when railways will be made for the purpose of bringing land into cultivation, when every two miles of land will be intersected with a railway throughout the whole country. If this be so, where is the wisdom of the men who are expending money in millions merely to oppose fancied rivals ? Where is the use of crushing an opponent at ten miles’ distance, when two or three other lines are sure to intervene subsequently ? If we cast our eyes over the map, we cannot resist the conviction that every mile of highway will ultimately be replaced by two miles of railway. We cannot but laugh at the opposition to the London and York by the London and Birmingham, while perhaps at the very time a new line is in contemplation between both.”—p. 119.

“ The most direct main lines between important towns will command a certain preference over indirect ones, but not at higher rates of fare, and every year will add to the

choice of the public in the number of routes they can take. The highest speeds, the lowest rates of fare, the best line, the easiest carriages, the greatest safety, and the most complete general management, are the only securities that can henceforth be taken against successful competition."--p.121.

A more decisive expression, however, of English views upon this subject, now intensely fixing public attention in that country, is found in the Fifth Report of the Select Committee on Railways, to Parliament, in May, 1844, the Right Hon. Wm. Gladstone being chairman of the committee. These views are characterized by great general soundness as well as high authority, and their liberal bearing may be seen in the extracts now cited. The italics are of course ours :

"As railways multiply, the collision of interests between them becomes sharp and violent, and where the combatants on all sides are so powerful and opulent, a more than ordinary vigilance and firmness is demanded from Parliament *for the protection of the public interests.*"—*Report, p. 6.*

"It is, moreover, to be recollected, that new lines of railway are sometimes projected for the purpose, not of increasing, but of restricting railway accommodation. Cases may occur in which *a Company, fearful of the competition of a parallel line, although at some distance, and calculated to afford so much of* ADDITIONAL ACCOMMODATION *to the public as fully to warrant its construction,* MAY THROW OUT A LATERAL BRANCH *across the district to be traversed by such parallel line,* which although affording only a circuitous communication with a terminus, *may nevertheless materially* INCREASE *the facilities of* PARLIAMENTARY OPPOSITION *to the new line.* Such a case would be an example (always presuming that the branch could not be sustained by its own proper traffic,) of competition of an OBJECTIONABLE KIND, operating by anticipation. *Or again, there might be instances in which the projectors of new lines might be induced to deviate from their intended course in such a manner as to render*

them powerless in their competition with old ones, and to diminish greatly their utility to the country. For example, instead of two lines of railway from a given terminus, to two important towns widely apart, each forming a good and direct communication, their combination might substitute one line, with forks, greatly lengthening the distance to each, and by that elongation disarming one or both of the power to compete advantageously with some already subsisting, and likewise circuitous line.”—*Report*, pp. 8, 9.

“With regard to such principles in their more abstract form, the committee anticipate a very general assent to the propositions, that railway enterprise *should be encouraged ; that the country, after all that has been done, still affords great scope for the extension of the railway system ;* that the good faith of Parliament with respect to privileges and powers already granted should be kept beyond all just suspicion ; that one of the elements of encouragement for future undertakings is just and equitable dealing with those already established ; *and that at the same time nothing in the NATURE OF WHAT IS TERMED A VESTED INTEREST* (by which the committee understand an interest and claim over and above *positive enactments* for some restraint of general principles in favor of the party,) OUGHT TO BE RECOGNIZED BY PARLIAMENT AS ATTACHING TO EXISTING RAILWAYS.”—*Report*, p. 10.

“At the same time, the committee desire it should be understood that they are disposed to attach the utmost value TO THE UNDOUBTED POWER AND RIGHT OF THE STATE to promote the construction of NEW AND COMPETING LINES OF RAILWAY as a means of protection to the public against the consequences of the virtual monopoly which former acts have called into existence.”—*Report*, p. 12.

“On the other hand, it would be most important that the LOCAL CLAIMS and CONVENIENCE of every district through which it might be proposed to carry a new railway should be fairly and fully considered ; that the recommendations it might possess, from shortening distances between im-

portant places, and thereby saving time at least, if not money, should carry great weight; and that even the probability of a combination with respect to fares and an increase of charge, from the construction of a new railway, should not at once be held decisive against it."--*Report*, p. 13.

22. That the general current of legislation in this Commonwealth has been in accordance with the principles we have now stated; that this is evinced in special provisions in the charters where the Commonwealth intended any protection to the road granted, against the grant of other roads; that six of the early charters contain provisions restricting the state from granting any other parallel rail-road within five miles on either side of those thus created; that four* of these have been built, and the positive refusal of the Legislature, since the early history of rail-roads, to incorporate this provision into any subsequent charters, shows a clear intention and full notice, that it reserved the *right* to act perfectly unembarrassed in its future legislation and grants:

23. That the legislation of this Commonwealth has been in accordance with these views; that this legislation is exhibited in the parallel turnpikes chartered, when that mode of communication occupied public attention little less than rail-roads now do; that it is still further illustrated in the charter of the Warren parallel to the Charles River Bridge, the Boston and Worcester and Boston and Providence Rail-roads each to turnpikes, costly and valuable, the Eastern Rail-road to the Salem Turnpike and Chelsea Bridge and the Boston and Maine Rail-road, and the extension of this latter road parallel to the Boston and Lowell Rail-road; the Boston and Lowell Rail-road parallel to the Middlesex Canal; the Fitchburg Rail-road to the Boston and Worcester; the Fall River and Middleboro' Rail-road to the New Bedford, Taunton and Providence;

* These are the Worcester, Western, Boston and Lowell, and Boston and Providence Rail-roads.

the Bridgewater and Randolph Rail-road to the Old Colony ; the different New York lines of rail-roads, and others not now in mind :

24. That under these general principles it may be well doubted, whether rail-roads must not hereafter look mainly to their own protection by low fares, direct and well managed lines, superior accommodations and right locations ; that no parallel road to such an one can ever be built or sustained, and will be rarely, if ever, asked for :

25. That these petitioners in addition to escaping the ferry and accommodating a large unaccommodated region by their proposed road, also thus obtain one of the best and most central depots in the city, and especially advantageous to them in its location in the very centre of the shoe and leather business, in which they are so extensively engaged :

Finally : That these considerations show a clear and imperative exigency for this grant ; that the incidental direct or indirect injury, if any there be, to the Eastern Rail-road, is not to be considered against this, because, for the reasons set forth, it cannot, if disposed, with its connexion with the ferry, and its present depot, meet and remove this exigency, and because it has held, rather by sufferance than right, the only business this road will take from it, and which it made no effort and expressed no desire in its location to accommodate ; so that the question of exigency comes to be in effect simply, whether there is business enough to support a branch rail-road to Malden, as prayed for by the petitioners, and this question we apprehend will be abundantly and conclusively answered by the testimony :

Thus much for our first point of a public exigency. The petitioners are then bound to make out,—

2. *A Feasible Route*—by which is meant, one practicable in regard to the face of the country, and over which a rail-road may be built at a reasonable cost.

On this point they are happy to present a report, plan, and profile, made last year, by James Hayward, Esq., one

of the best and most experienced engineers of the country, and upon whom full reliance may be placed.*

By this it will be seen the total estimated cost of the road, with all necessary furniture, from North Salem to Malden, is \$269,884 50.

This estimate does not include land damages, and will also have to be raised some \$2,000 a mile to meet the enhanced price of iron since it was made. The whole length of the road, by this report, is 13 1-2 miles from Salem to Malden.

"The estimate," says Mr. Hayward, "contains nothing for *land* or *damages* to estates. These items, except in the villages of Lynn and Danvers, and in the approach to Salem, must be comparatively inconsiderable, as very little valuable land will be taken, and no estates, that I am aware of, will be badly cut or incommoded by the location of the proposed road. The most of the land through which the road passes can never be available for any but farming purposes, and very little of this is under a high state of cultivation. With the exception of the village of Lynn, there is no place on the line where an orchard or garden of any kind is entered by the proposed road."†

These two points of a *public exigency* and *feasible route* established by their evidence, the petitioners, composing no inconsiderable part of the constituency of that government to which they make their request, seek of your *justice*, and not of your charity, the indisputable right to provide for themselves, and their children after them, a *modern highway*, which shall restore their towns to that relative position among their sister communities which of right belongs to them, and which the superior facilities earlier granted others are fast taking from them.

* See Appendix M.

† The disposition of the land owners along the line, and the value of land, may be further seen by Mr. Furinton's letter. Appendix (p. 12,) L.

And they ask this with more confidence, because its reasonableness is so conclusively conceded, *that no soul, saving alone the Eastern Rail-road Company*, appears to resist them,—a resistance formidable, they admit, from the character and wealth of the remonstrants, but powerless in the reason and justice of the case.

MR. CHOATE'S CLOSING ARGUMENT.

The Committee having been called to order by the Chairman,

MR. CHOATE said—

Mr. Chairman : This application is felt to be one of very great importance by that considerable portion of the community who have presented it, and the case before you very well entitles itself to be dispassionately considered and wisely disposed of.

Not having the honor to be one, either of the committee or the Legislature, I feel very sensibly the delicacies of attempting to assist you and your colleagues in the discharge of your duties. But it has been the immemorial practice to admit counsel before committees, and I shall aim therefore to perform the duty now devolving on me with the same zeal and frankness that I should use in other courts, lower than this, the highest of all. And if, as may perhaps happen, from friendship to the petitioners, from a strong conviction of the merits of their case, or from whatever cause, I may pass beyond the limits of entire accuracy in the statement of the facts or the conclusions from

them, I am sure the committee will be as indulgent to excuse as they will be prompt to detect it.

I have no apprehension that there is in the Legislature any pre-impression against this case, because the session and the time have been marked by an extraordinary increase in the number of similar applications. Some, elsewhere, might see in this an argument against every rail-road petition : some, *a priori*, might determine to oppose every one of them for this reason. Others, again, might conceive that every application was but one more case of the prevalent distemperature ; that the state had gone stark mad on the subject ; that the petitioners had caught the infection,—and there an end. How shallow and unstatesmanlike such a course would be, I need not press on your minds.

But whether any of this be, in fact, so or not, I shall not consume time in inquiring. Whether there be one other case of a rail-road petition in the whole Commonwealth, which ought to be granted, I shall not stop to discuss. My business, and the business of the committee, is now with this application. And I trust that I shall place it on such discriminations—on such pre-eminent grounds of public utility, that you will grant this charter, even if you do not grant another for a quarter of a century to come. It has nothing at all in its nature competing or conflicting with the rights of any rail-road, but presents a case where large masses of persons and large masses of interests are merely asking for accommodation by the construction of a *branch to one of two existing roads*; and I deceive myself if I may not here felicitate the Legislature on an opportunity of granting facilities to a large community without doing the slightest injustice to any human being.

And first, let us go back to the origin of this application. It does not spring, as agreed by the other side, from any speculative rail-road mania of to-day or yesterday ; it is not asked for to supercede any other road, old or recent. If some think to trace it to any so small policies, they are

mistaken. Such is not its ground. It had its origin many years back—as far almost as the birth of the rail-road system. The great public wants, in 1836, succeeded in procuring the charter of the Eastern Rail-road, the lower route, but the same parties now represented by the petitioners were here then. They come now with the added growth, the added experience, the added inconveniences of ten years more ; but they were here then, and have been still here. In all previous stages of the great legislative deliberation, anterior to the actual grant of that charter, it was a matter of sharp and serious doubt in the public mind, what line should be adopted between Beverly and Boston. As long ago as then was this sharp conflict and grave doubt between the lower and the interior route. The petitioners were not inattentive to their own interests at that time.

Danvers, full of energy, of capital—the capital of middling men,—that species of prosperity commanding more than all others the favor of government, full of industry, ever true to her duties, from the time she sent her sons to the battle-field of Lexington, to the day when she appropriated her last dollar for the education of the poor,—Danvers was here then ; Lynn, that vast beehive of workshops of Essex, was here then ; Saugus, of which the learned counsel has spoken in so condescending contemptuous terms, was here then.

Unfortunately they were obliged then to combine on a much more unfavorable route than they are now enabled to offer, terminating on a ferry perhaps even worse than that of the remonstrants themselves ; but with all that, it was better than the present road. And now, when their route has the vast merit of offering a speedier, surer and safer conveyance to Boston—avoiding a ferry altogether—they come again to apply for their old and favorite line, and they will persist in the movement, which, springing out of the unalterable nature of things, must from very justice be granted at last. They originally urged, that

the lower route, the then line from the south side of Salem, creeping across a desert, plunging through a marsh, arriving at deep water at East Boston, where the ferry boat was exposed to all the detention of fog, ice and other impediments, and leaving at last the disconsolate passenger in an inconvenient terminus, far removed from the business and inhabited part of the town, they urged that such a rail-road deserted and abandoned their peculiar interests, and was no rail-road for them. They denounced it accordingly, and fully and fairly gave notice that they should not cease to apply for relief to the Legislature.

The road has been tried, and fully tried, for ten years, and these same parties are here again for relief. I speak of these things to show that this is not a temporary movement, but that it springs from the reality and nature of things, and that it confidently awaits the action of the government.

The learned counsel for the remonstrants has told you substantially the same story, but with an entirely different object. He regards the decision of 1836 as final, as an adjudication of the whole question. But I deceive myself if there cannot be found principles in that very decision to warrant the granting of our prayer a dozen times over.

That there was a decision then, it is true. And a more stupendous blunder—I say it in advance—was never committed by wise men. I doubt if the like will ever again be perpetrated by wise men, or foolish men either. I see here present the able President of the Eastern Rail-road Company, and I ask him whether, supposing that a tempest should uproot their road, or an earthquake should swallow it up forever, whether he would risk his uncommon intelligence so far as to say, that one man out of ten thousand would venture to recommend so stupendous an absurdity as the re-location of the road on the present line? No man would do so, not one! I cannot find it in my heart to blame the Eastern Rail-road Company for seeking to make the best of their unfortunate position. It

is but natural ; but I repeat it, that the man does not live to-day, who would hazard himself so far on an open question, as to say he would settle upon the same line.

Did the learned counsel mean to say that there was any thing, word, act or principle, in the action of the committee of 1836, that makes, in the slightest degree against our new case to-day ; that weakens, in the least, the force of our application now ; that the committee intimated a doubt of the extent and weight of the interests represented by the petitioners ; that these were not regarded as entitled to much consideration ; that the committee declared a ferry in itself to be a good thing, and not, *ceteris paribus*, a great evil ; and that it was not possible that these very interests would not, in ten years more, have a right to branch out into an upper route ? Certainly he could mean no such thing.

True, Sir, the committee then came to a conclusion. It was an easy thing in 1836 to meet our arguments by small jests and bold promises. They promised a branch to Danvers and a spur to West Lynn, but have the Company, from that day to this, ever lifted a finger to accomplish that promise ? Not at all. They employed a solemn, specious and adroit engineer, to tell of the evils and delays consequent on draw bridges ; it was very easy to tell and to publish such stories, and thus to generate a sort of public opinion against bridges, yet every body has lived to see them entirely disproved. And everybody knows that there is not the delay of an instant in the passage of trains across draw bridges. It was easy also to tell the Legislature that the business and resources of the road would draw into use the ingenuity and experience of the skilful and inventive, so that ferry boats would soon be constructed with rail tracks on board, easily able to convey a train of cars from one side to the other. But who has lived to see this ? We have indeed seen some two hundred men, women and children crossing in fog and obscurity, steering by compass, like Columbus in his caraval,

uncertain what land they should make,—but nothing like this. It was far easier thus to talk than fairly to answer our arguments or meet our case, and this accordingly was the course pursued. The small laugh was raised, the stupendous blunder was committed, and the Eastern Rail-road was chartered on its present route.

But the question again recurs, did that committee say one word, do one act, establish one single principle, which comes in conflict with our petition to-day? I contend not. Was the ferry route selected, for instance, because a ferry is in itself preferable to a bridge? or because it was not regarded as a nuisance? Certainly not. Refer to the 16th page of that report, and you find the chairman declaring that “all other things being equal, a permanent structure is in every respect preferable to a ferry,” though an additional mile in length. But the difficulty was, the choice lay between two ferries, (p. 13, same report, Leg. Doc. 1836, Senate No. 77,) and the committee were guided in deciding in favor of East Boston, by the conclusive, final consideration, that the ferry there was three times as short as the Winnissimmet. It was to them a choice of evils, and their action gives no countenance at all to the solecism and absurdity that a ferry is preferable to a bridge. We are now enabled to avoid the choice of either evil, and to present a route free from both.

After the original investigation had proceeded some way, an alteration was suggested, to go through Charlestown and so enter the city. But here the prompt resources of COL. FESSENDEN were drawn upon, to depict the evils and dangers of bridges and draws. To show from whose quiver the arrow came which prompted the remarks of the committee on this topic, let me read the 4th page of the Colonel's report:

“These draws are always objectionable, but I do not know where a route could come in contact with a more unfavorable one than that which would be necessary in crossing Charles River; as is the case with the present

bridges, the draw must be opened very frequently for the passage of vessels, sometimes amounting to forty per day, causing, as I think will be acknowledged by all, a very much greater and longer continued uncertainty in the use of the road than would be encountered in the approach by East Boston. Indeed, a comparison can hardly be made, and should not be made in my view, for by the former route there will be positive and frequent delays, while by the latter experience has shown that delay or uncertainty can scarcely be expected."

So, then, while the committee recognized both ferries as evils, and the East Boston as only the less of the two, they were frightened from their propriety by the information that the time lost by the raising of draws would be fully equal to all delays by reason of the ferry. Whereas, such is the well settled arrangement in such matters, that there is not, and never will be, the detention of an instant at any draw in a rail-road bridge. Mark how felicitously every thing has happened. We now propose to enter the city by another route, which avoids every inconvenience and every ground of delay; and had the committee then been in possession of the fact that this route was feasible, they would have selected it upon their own reasoning in their report.

Do our learned friends find in the report any intimation that our interests were trivial? I believe not. That Danvers was regarded as a small item, or that West Lynn was disparaged? I believe not. I have not been able to perceive one such word, and I pray attention if there be not throughout, everywhere, a plain recognition of the vast importance of those interests? If it be not clear that there was a hard struggle in the minds of the committee as to the two routes, founded on this very ground, that the title of Danvers and West Lynn to accommodation and consideration was valid and apparent? It was with the utmost difficulty that the committee at last arrived at their conclusion, and there is no shadow of an intimation, from

the beginning to the end of their report, that these interests were not so considerable that they might speedily be entitled to a branch of their own.

Mr. Chairman, I have done with this topic. I have shown that this petition is of early date, that it was seriously offered, and that the principles on which it rests were recognized and sustained by the committee of 1836.

Now, Sir, who are the parties to the application before you. On the one hand the public, that is, those who are, in the contemplation of the law and of reason, the public; and on the other hand some small private interest.

God forbid that I should stand here and ask you to violate one single private *right*, though of no higher value than a blade of perished grass. No, Sir, no. And even were any one so to do, I well know what would, and ought to be your decision. But this is no such case. It is the ordinary case, simply, of the many against the few. The great interest of the great public, against a minuter interest of a small portion of that public. Interests only, not rights, are concerned. Here are four large towns, with 25,000 inhabitants—two represented by a corporate vote, and the others by the signatures of a large majority of their legal voters. There are over 3,000 new petitioners this year. Lynn sends over 1,600 : Marblehead between 200 and 300 : Saugus, 263—every voter in the town : Boxford, 52 : Stoneham, 84 : Malden, 279 : Salem, stung by the very taunt of the other side, sends to-day 650. There are, too, from 1,000 to 1,200 of the women of Essex—our mothers, daughters, sisters and wives—who ask us for the removal of an offensive and shameful annoyance, to which they are subjected on every journey they make to the metropolis.

Danvers, the original petitioning town, is the third in Essex County for the vote she throws and the capital she wields. She is a larger manufacturer of leather than any other town, and manufactures also great quantities of wool, iron and glue. Besides all this, her agricultural capacities

are sufficient, if aided and encouraged by legislation, to make her one vast garden, or rather a vast series of gardens, for the supply of the market of Boston. She is before you, a petitioner for rail-road accommodation.

Lynn, too, is here by a series of admirable and powerful resolutions, to which I will ask the attention of the committee.* (Mr. Choate here read the resolutions.)

Such is the voice of Lynn, presented and supported by the men she most delights to honor—her selectmen—her HOODS, WEBSTER, BREEDS, and others.

I have already referred to the number of petitioners from Malden and Saugus, and other towns, whose names are before you.

But our learned friends laugh at all this, and say that nothing is more easy than to procure as many names as you please to any petition. If this be so, I wonder, then, why they have not employed more pens in their own behalf. Why, sir, in the face of this overwhelming evidence of public opinion, not one human being—man, woman, or child—not one interest even, but just the Eastern Railroad corporation—appears to remonstrate against this petition. It is the travelling public on one side, and the men who live by selling travelling accommodations, on the other—and that is just all.

But this particular demand may be unreasonable. Let us look, therefore, a little further into the details of the case, in its simplest and narrowest aspects. I say, then :

1st. That these petitioners, or a large mass of them, are entitled to increased facilities of rail-road transportation—on every principle of policy, which can be sustained, and by every particle of evidence offered—by branching out, either to one or the other of the eastern roads :—and,

2d. That, by permitting them to make their branch to the upper road, the great aggregate of public good and

* See Appendix, page 5, E.

public accommodation will be vastly more promoted, than by compelling them to resort to the lower.

Upon the first proposition, that the parties are entitled to increased accommodation, there will be no occasion to detain the committee long. The fact is perfectly clear, and no longer open to controversy. Danvers, by the concession of every body, on every principle that the Legislature ever gave or withheld a charter,—is entitled to it. That was admitted by the committee of last year, as appears by the passage of their report, already cited by my associate. “The committee are of opinion that the great and increasing business of Danvers, entitle that town to greater rail-road facilities than are now enjoyed.”

And the learned, candid and able counsel* for the Eastern Rail-road, on that occasion, made the same concession.

“With regard to the accommodation of the inhabitants of Danvers, of the claims of that town to rail-road accommodation, no denial is made or intended. The highly respectable and industrious inhabitants of that place, certainly deserve a full share of the favor of the State; as they enjoy that of the respect and confidence of all portions of the people, and none more than of those interested in this remonstrance.”—*Mr. Loring's argument*, p. 19.

My able friend, opposite, for the Eastern Rail-road, says the same now, but both contend that no new line is necessary, and that the increased facilities—the title to which is not at all questioned—can be best afforded by means of the lower road. Now this is what we contest; and here is the case of Danvers. She has a population of 6,500 inhabitants, as law-abiding, moral and just, and as much entitled to the favor of government as any in the State. She is the third town in the County, as to her vote, and the capital she possesses. No town is more largely engaged in the manufacture of leather. The industry of her

* Charles G. Loring, Esq.

people is of that class which pre-eminently compels a resort to rail-road facilities, and is pre-eminently entitled to legislative protection. She annually produces from 10 to 15,000 tons of merchandise for the Boston market, and her citizens make, per year,* 45,000 passages to and from the capital. And yet every one of her people is obliged to be an hour and a half on his journey, each way ; and, of her merchandise, hardly a ton, a solitary ton, is moved by steam power, any more than if that great agent were again slumbering and buried in the bowels of the earth. This cries aloud for relief.

But the counsel says that Danvers is very near to Salem. Yes, sir, she is the adjoining town. Her people are just near enough to hear the whistle of the locomotive, and to gaze at the sparks of that flying giant—to them as ourselves, for all practical purposes, as are the falling meteors in the midnight firmament ? Mr. Chairman, this is a sin and a shame. And so we hear it said on every side, by every committee and every counsel, excepting only the *counsel here*.

(Mr. Derby, counsel for the remonstrants, objected that there was no proof of so many passengers.)

Is there no proof of this ? Does the gentleman mean to cavil at the number of passengers we have stated, and say they are only 43,000, instead of 45,000 ? If so, the difference is very inconsiderable, and will not long exist. But, to please my friends, I will propose to call the number whatever he pleases, when I have the pleasure to meet him, next year, to celebrate the opening of the new road ! We have, however, proved these 43,000 passages, not of pleasure but of business, by testimony of the highest order. Certain inhabitants of Danvers have addressed themselves to the subject, and made several series of observations,

* See Mr. Webster's estimate, which puts the number much higher.

with a view to qualify themselves to testify with positiveness on this point. CAPT. DANIELS, a gentleman whose integrity and capacity will not, I am sure, be questioned, swears that the result of his inquiries and examinations is, that from 130 to 140 pass between Danvers and Boston, every working-day in the year. And my learned brother may amuse himself or not, just as he shall see fit, in computing whether this will amount to 43,000 or 45,000 per annum. MAJ. ALLEN corroborates this statement, and testifies, in addition, that he has applied to all the stage drivers, and ascertained that these vehicles conveyed annually 22,661 to Salem, independent of 4,400 who travelled on season tickets. Two thirds of the 22,000 travelled the whole distance to Boston, while all the 4,400 did the same. This amounts, in all, backwards and forwards, to 39,000 and over, which, added to the 4,700 from the village of North Danvers, also testified to, reaches nearly 44,000. Between South Danvers alone, and Boston, there are 33,780. Mr. POOR and Mr. UPTON both concur in the statement of from 130 to 150 per day, or from 43,000 to 45,000 yearly.*

Now, what is the present accommodation for all this travel? CAPT. DANIELS declares that, one trip with another, it requires at least an hour and a half to pass between Danvers and Boston, and I was sorry to see that a fact like this could only provoke a smile from the counsel at the extreme slowness of this respectable gentleman's horse. When, Sir, we remember that the very recommendation and distinguishing merit of rail-road travelling is that it lengthens the lives of business men, I say that all must agree with me that, for this reason alone, we have a claim for a rail-road here. I say nothing now of the price of passage, although that is 50 or 52 cents, whereas, at most, it should be but 40.

* In addition to the number who go by stages to the rail-roads, many go by their own carriages or on foot to the depot. Two stages also run through the town direct to Boston, and many of course go by their own conveyances.

Again. Danvers produces yearly from 10,000 to 15,000 tons of merchandise, hardly a single pound of which is conveyed by steam power—that great means of augmenting the wealth of the world. The committee will agree that here is a case for legislative interference. But the other side object to this estimate, and we will therefore examine it a little. We all remember the calculation of MAJ. ALLEN, and how scrupulous he was in collecting his evidence. His estimate, in 1844, was 9,355 tons. I cannot bring myself to suppose that now—making a fair allowance for the progress of labor—the annual produce is less than from 12,000 to 15,000 tons. For, first, the increase of population is to be taken into account; and, second, the vast, the stupendous, increase of prosperity consequent on steady industry and judicious governmental protection. Let us have, Sir, a steady tariff like the present, and a certain peace for a year to come, and you will see the tan-vats and manufactures of Danvers leaping and starting into quadruple value.

For instance, Mr. UPTON, in his estimate of 1844 and 5, puts the manufacture of glue at 250 tons; last year it was 450. Mr. HOOPER testifies that 700 tons more of iron was worked last year than in 1845. There were 24,000 barrels of vegetables (I will not name them, for fear of exciting another smile,) raised year before last. The quantity has since increased by 6,000 barrels. Some of this merchandise is transported into the interior of the state, to Lowell and Haverhill, between which towns and Danvers there ought to be, as once there was, a continuous intercommunication. Add to this the 300 daily passages between Danvers and Salem, and the 12,000 cords of bark annually conveyed from Salem to Danvers, and then I say that if an urgent case of rail-road necessity is not made out here, one never existed on earth.

I have said nothing, as yet, upon the increase of travel and traffic consequent on the building of the road, though I fully concur in the opinion that the road would operate

to speedily double the present amount. I have said nothing of ice, nothing of granite, to be transported. I stand upon existing facts, as proved by testimony, and I say that we may justly complain that we are not accommodated with a fair share of rail-road facilities. And I respectfully lay these considerations before the committee, in behalf of the people of Danvers, irrespective of the matter of the ferry. Then, as to West Lynn. She also has a clear right to increased facilities. It is stated by Mr. WEBSTER, and corroborated by all, that the whole of Lynn, west of the hotel, is not fairly accommodated. It has a population of 12,000, sends 130,000 passengers and 7,500 tons of freight, up and down, each year, only a portion of the first, and none of the last, enjoying the privilege of steam transportation. The report of 1836 contemplated the establishment of a branch from the lower road to West Lynn, and it was expressly promised by the Corporation. But from that moment to this, not a finger has been lifted, not a dollar expended, by the Eastern road, towards the building of such a spur. And even more. When the people of this part of the town subsequently requested this promised accommodation, their application was resisted by the very Company pledged to afford it.

There is another class of petitioners here, who ask to be allowed to share, for the first time, in rail-road accommodations. I refer to those from the little town of Saugus. Consisting of a series of hills, from their summits the people of that town may look out on the smoke of the Eastern Rail-road trains as they do on that of the Bangor steamboats a little further distant, and they derive just as much benefit from the one as from the other. This town, they say, is small. It has, indeed, only about 1,200 inhabitants—somewhat more in number, I venture to suggest, than the stockholders in the Eastern Rail-road. The people perform, every year, from 9,000 to 10,000 passages to and from the city—perhaps more than those respectable stockholders do! The merchandise transportation amounts

to 2,000 tons, which is daily increasing. Is all this an interest too trivial for attention? To shorten and cheapen the transit of 9,000 or 10,000 people, and transport at a much reduced rate, 2,000 tons of produce, which can hardly afford to pay a higher price—is this nothing?

Sir, with all deference to the superior judgment of my learned brother, I must be allowed to suggest that he did not greatly assist the cause of his clients by sneering so bitterly at Saugus and its people.

But we shall have a very inadequate idea of the advantages of this road, if we regard it merely as a means of facilitating transportation to and from the city.

That is not all it will accomplish. For the towns of Saugus, Lynn and Danvers, and Lynn, in particular, abound in numerous beautiful sites, which promise to become, through its agency, most eligible residences for persons of moderate means, who do business in town. Grant this charter, and these situations will be purchased, built upon, and soon show forth as the happy abodes of civilized life. Is all this nothing? Is there, in the estimation of my learned friend, who has acquired a reputation so enviable, through his able assistance to the cause of rail-road progress, and who, I am sorry to see so forgetful of that reputation as to appear against my clients here—is there no use in a rail-road but to precipitate the traveller from the country into the city, at top speed, and ejaculate him out again as soon as his business is completed? Are there no moral influences in rail-roads? Is it nothing that they afford the business-man, whose six months in every year, are passed amidst the crowd, dust, and turmoil of the noisy streets of town, the opportunity to pass the other six in the bosom of a happy family, at a quiet and secluded country seat? That they give the pale and wan denizen of the noisy workshop and dingy counting-house, the means of invigoration and health, from the breezes of the country hills, without detriment to his worldly prospects, or the sacrifice of valuable time? That they cause

the capital of the city to flow into the country through ten thousand streams, beautifying and fertilizing the whole land? Sir, I entirely agree with the writer in the Westminster Review, already quoted on each side, that these moral and social influences of rail-roads are the considerations which most entitle them to favor.

The new road may indeed take a twentieth, a sixteenth, a quarter per cent. from the value of the Eastern Rail-road stock; but if, through its means, one hundred, fifty, twenty, aye, ten healthy children, are raised to manhood and womanhood, the republic will be the gainer.

Therefore, I say, our right to additional rail-road accommodations, is fully established. Then,

How shall we have them? By branching out to the upper road, through Danvers—by granite quarries, and along the margin of Flax and Brown's Pond—through West Lynn, Saugus, and Malden, into Boston; or down to the lower road, the Eastern corporation building the branch. We contend that our proposed route will promote the public interest in an altogether greater degree than the other.

Perhaps I go somewhat too far against the interests of my clients, in admitting that there are really two modes to be considered. We present one; we have estimated its cost, and traced its line; and we entreat you to allow us accommodation by that line. But there is a grave question as to the other. The Eastern road has applied for leave to construct a branch from Salem to Danvers; but how do we know—what assurance have we got—that the branch will be built, even if authorized? Is there any coercive power to enforce it? As was asked by a cabinet minister in England, "Who shall sue the king of Spain's bond, if his majesty happens to forfeit it?" And is the pledge of the Eastern road good for any thing? It was perfectly understood and promised in 1836, that the company would build a branch to Danvers, and a spur to West Lynn. Have they raised a hand or lifted a finger to do so?

No, Sir. The Eastern Rail-road has no interest in the world in this matter, save to give the go-by to this application; and I say that I believe, on my conscience—and I say it with all respect to the head of the corporation—that the company will no more build a branch to Danvers than to the 49th parallel of latitude, beyond the Rocky mountains. They see, as COL. FESSENDEN told them, that, flatter, wheedle, promise as they will, travel will forsake the ferry, and seek a stable and permanent route. The ferry will be abandoned, and the original blunder atoned for. Consequently the road will not find it for its interest to construct the Danvers branch, and it will no more do so than it will build one to the moon. Therefore, there are two modes in promise only; therefore the case can be met but in one mode—and that is the one we propose.

But, for the sake of argument, admitting the two methods to exist, ours ought to be determined on because thereby the aggregate of public accommodation will be greatly enhanced.

Prima fronte, Sir, it would seem to be the inclination of a just and parental government, to give its citizens the accommodation they seek in the way they seek it, if that mode be not unjust or capricious. Now, gentlemen, here are Danvers, Saugus and West Lynn, who have appeared before you and made out a clear case of the necessity of *some* additional accommodation. The case is just as good for the particular accommodation they ask, as for any. The petitioners feel profoundly and keenly that they shall be greatly better satisfied with the accommodation in the mode they ask for—with being treated like men—free agents, allowed to assist themselves and develop their own internal industry—than with being compelled to content themselves with what the Eastern road may choose to give them, and walk only in the path which the Eastern Corporation may prescribe. And again I would remark, without intending to be and hoping not to appear importunate in the least, that a just and parental government, if it prop-

erly can do so, will grant the accommodation it affords in the way in which it is sought. Good nature dictates so much. A just and sound policy dictates it. If a little facility be granted to us, but not the facility we desire, it would seem to be next to refusing it altogether. Certainly the father who, being asked for a fish, gave his son a serpent, was the harder of the two ; but that other father can scarcely be said to have shown a parental and kindly disposition, who, being asked for bread, choked his child to death with fish.

What is, in reality, urged against this application? Nothing but this : that by our taking this route the profits of the Eastern road will be diminished, and, by the same process, those of the upper route enlarged. That is all. I shall afterwards have something to say upon the counsel's ideas of the effect of this competition, and of parallel lines in general, but at present shall confine myself to the one consideration I have mentioned. No doubt, then, it is to some extent true, that by the construction of this branch the profits of the Eastern corporators will be somewhat and slightly diminished. How far, we have neither estimates nor evidence. Neither is there any evidence of the number of shareholders in the lower road.

We grant, however, that to some inconsiderable extent, or possibly some considerable extent, their profits may be influenced. But we say that, if by permitting the choice of roads, a perceptible, and large increase of general public accommodation can be secured, then the Legislature ought to disregard this consideration. The principle is exactly the same as that of establishing a new hotel in the vicinity of an old one, a new steamboat on the route of a former one, or of granting a license to a young counsellor-at-law to practice in the neighborhood of a long established member of the bar. Beyond doubt, without good cause, nothing should be done to affect existing rail-roads. Yet, though it may be true that our new road may produce an effect on the old one, still, if by our mode the accommoda-

tion of the public is perceptibly and considerably increased, the effect on the old stock ought not to be regarded, any more than that produced by the settlement of a young lawyer on the income of the old one ; or the establishment of a new hotel near one of ancient resort, provided the public need both, or need the new more than the old. If an increase of the public welfare or accommodation is the result, the consequent loss to the original monopolist is a matter entirely unworthy the attention of the Legislature. Suppose, for instance, that the Commonwealth had long been in the habit of employing a solicitor-general, who, except his salary of, say \$2,500, had nothing whatever to depend on for a living ; and suppose, again, that the General Court should be satisfied that the abolishment of such office would greatly promote the public good, what legislator is there who would not approve such a step, how much soever he might regret its personal operation on the man who chanced to be incumbent in office ? It is just so here. Here is a great portion of the public petitioning for certain accommodation—the whole travelling community, in fact, on the one side—and the sellers of travelling accommodation on the other. And just as state officers are appointed for the service of the Commonwealth—not the Commonwealth established for the support of the state officers—so are corporations to afford travelling facilities created for the accommodation of the community—not the community for the maintenance of such corporation.

We have made out a clear and undoubted case of the necessity of further railway facilities, to which nothing can be reasonably urged, in reply, and which the committee cannot fail to perceive. Two modes of affording this accommodation, perhaps, are in question ; and our argument is, that the one we favor will tend to the public good vastly more than the other. And we say, moreover, that no lawyer, no member of the Legislature, no well informed and sensible man whatever, can say that the granting of our petition can, in any way, infringe any legal rights of

these remonstrants, or violate any contract, express or implied, which has ever been made between the state of Massachusetts and the Eastern Rail-road Corporation. We deny that the Commonwealth has ever given any pledge, either implied or express, or entered into any agreement, express or implied, with this Eastern road, which has put it out of the power of the Legislature to grant charters to any number of rail-roads, between the same termini, and accommodating the same public interests.

It is perfectly competent for the Legislature, in point of governmental faith, honor and right, to grant ten thousand more rail-roads, in an instant, between points already connected by railway communication, the new roads being on the same line, accommodating the same interests, and depending for support on the same passengers and freight as the old and original road. The question reduces itself to one of policy and sound discretion ; but, as to right, no one of the least information will contend that, by the grant of the first charter the Legislature has impaired its right to grant any number of others, between the same points. The time for that argument has long gone by. The question was settled, and the doctrine established by the Supreme Court of the United States, in the case of the Charles River and Warren bridges—a case well worth all the time, labor and money which it cost, for the sake of the great principles it determined. Let me cite to the committee a passage from the opinion of the chief justice, who, differing as he may from myself and most of us, in very many respects and opinions, has yet proved, in his judicial capacity, not unworthy to fill that place, once adorned by the virtues, integrity and learning of a Marshall.

“And what would be the fruits of this doctrine of implied contracts, on the part of the states, and of property in a line of travel by a corporation, if it now should be sanctioned by this court ? To what results would it lead us ?

If it is to be found in the charter to this bridge, the same process of reasoning must discover it in the various acts which have been passed within the last forty years for turnpike companies. And what is to be the extent of the privileges of exclusion on the different sides of the road? The counsel who have so ably argued this case, have not attempted to define it by any certain boundaries. How far must the new improvement be distant from the old one? How near may you approach without invading its rights in the privileged line? If this court should establish the principles now contended for, what is to become of the numerous rail-roads, established on the same line of travel with turnpike companies; and which have rendered the franchises of the turnpike corporations of no value? Let it once be understood that such charters carry with them these implied contracts, and give this unknown and undefined property in a line of travelling, and you will soon find the old turnpike corporations awakening from their sleep, and calling upon this court to put down the improvements which have taken their place. The millions of property which have been invested in rail-roads and canals, upon lines of travel which had been before occupied by turnpike corporations, will be put in jeopardy. We shall be thrown back to the improvements of the last century, and obliged to stand still until the claims of the old turnpike corporations shall be satisfied, and they shall consent to permit these states to avail themselves of the lights of modern science, and to partake of the benefit of those improvements which are now adding to the wealth and prosperity and the convenience and comfort of every other part of the civilized world.”—*Charles River Bridge vs. Warren Bridge et al.* 11 Peters, pp. 552, 553.

In the face of this doctrine, I am not a little surprised at the language of the 7th point made by the remonstrants, that “the grant of the prayer of the petitioners would be inconsistent with justice and the honor of the state.” Mr. Chairman, this language, this assertion is insincere, fraud-

ulent and untrue. The grant would impair no contract, stain no faith, break no honor! Unjust? Sir, all that the state has done has been to grant a charter, and we are willing to abide by every word in every section of that charter. Government laid itself under no restraint by that instrument, either in law, equity, faith or honor, from granting ten thousand parallel rail-roads the very next day. No one can or does suppose that in getting a rail-road charter he gets a monopoly, since it is a matter notorious to every body—out of, as well as in the legal profession—that the grant of such a charter is in substance only a simple permission to construct a rail-road track from one point to another. The remonstrants here knew all this perfectly when they obtained their charter; and they knew also that the Legislature was at full liberty to surround them with any competition, however fierce. Therefore I say their language here is insincere and false.

Indulge me, Sir, with one single word further on this point. If, in 1836, the now petitioning interests had acquiesced in the route as then established, there might be some more decency, some more color of propriety in the pretence here set up, that they then became equitably appended to that line of travel. But how notoriously all this is otherwise. Their earnest protests and continued appeals have been put in evidence, and with what decency, or shadow of propriety, can these remonstrants, against all this, now contend that this population, this travel, these interests were then attached to their road?

I shall pursue this topic no further than to say, that, unless this branch is granted from Danvers, through West Lynn, Saugus, &c., these petitioners might as well be a thousand miles out at sea as where they are, so far as concerns rail-road communication with Boston. Such a dog-in-the-manger policy as the Eastern Rail-road Corporation have pursued, promising branches and opposing all attempts on the part of others to make them, yet never taking the first step towards constructing them themselves—

such policy and power, I submit, is far more honored by the disregard than by the favor of the Legislature.

There is one most desperate after-thought presented by the remonstrants, and that is, that no more parallel or competing lines, as they call them, should be chartered to any point of the compass. There being already, in other words, established rail-roads, towards the north, south, east and west—great roads, if you please, and we will allow so much,—the position is taken that all additional accommodation is to be had only by branches from these great roads, perpendicular or diagonal, to the communities to be favored. And this enormous heresy is carried yet one step further ; and that is, that nobody, except these main corporations, has any right to construct branches at all. The branches, if constructed at all, are to be built only by great routes. If this be really so, then it becomes a question of extreme interest to all inter-lying populations to know to which road they belong ; “under which king, Bezonian, speak or die !” Who owns us ? Who is to make our branch ? These will be the questions.

Gentlemen, I pray your attention here to the specious plausibilities which make up the whole case of these remonstrants.

Which of these roads is the elder ? I submit that the upper, or interior route, has the advantage in this respect, as far even as the state of Maine. In this connection it is necessary to notice the striking but notorious fact, that the adherents of the upper route—including the present petitioners—were, in 1836, remonstrants against the adopted line of the present remonstrants to this petition. In 1836, the following language was used by the committee :

“ The Andover and Wilmington Rail-road Corporation also remonstrate against any grant for a road from Boston to Newburyport. They did not allege that the grant of an eastern rail-road would impair their chartered rights, but as they had moved first in this great enterprise, and should soon have a part of their road in operation, they thought

it would be unwise and inexpedient, at this time, to grant another charter for an eastern road. This corporation has a charter to construct a rail-road from the Lowell Rail-road, in Wilmington, to the line of the state at Haverhill, and it is expected that it will be completed the coming season.” * * * *

* * * “A charter has been granted in the state of New Hampshire, for a rail-road from Haverhill to the state of Maine. That company has been organized, and a route surveyed through the state of New Hampshire, passing through the flourishing towns of Exeter, New Market, Dover and Somersworth.”—*Senate Document*, 1836, No. 77, pp. 4, 5.

Such was the remonstrance of the people along the upper route at that epoch ; and I ask if the interests I here represent were not then, *ipso facto*, attached to the upper route ? I demand of the remonstrants if it was not so ? I put it to them, *ad hominem*, to their confusion and silence, that all these now petitioners, and all these interests, were then, as now, decidedly disposed to connect with the upper, rather than the lower line.

And, even upon the doctrine that we, and other towns in our position, have no right to build a new road, but must be content with perpendicular or diagonal branches, or spurs, to an already existing railway—surely the right of the upper route to construct such a branch is as clear as that of the lower, and, on this ground alone, this remonstrance ought to be dismissed. And whether this be so or not, it ought surely to be our privilege to choose the road into which the branch we build should enter ; and our friends on the lower route must excuse us, if we prefer their older, and perhaps feebler, rival to themselves,—that we love those better than these. We appeal not to the sympathy of the government, but we beg of you, Mr. Chairman and Gentlemen, not to suffer yourselves to be swayed by any regard for one corporation, right or left—but, at all events, do not remember that there is one on the right, and not on the left.

But, Gentlemen, giving all that to the winds, by granting the charter we ask you will more promote the various and considerable aggregate of public accommodation, than if you compel us to be dependent on the road of the remonstrants. Because you will enable travellers to avoid a nuisance, and to gain in speed: and you will afford railroad facilities to thousands of people, and large quantities of merchandise, of which they are now wholly deprived, and will continue wholly deprived, even if the Eastern road builds its so much-talked-of branch. By building the new road we offer the people a communication with the city, over a secure, substantial, permanent bridge, instead of compelling them to take the chance of swimming, and the risk of sinking in a ferry boat. I do not fear to discuss the comparative merits of a bridge and a ferry with the ingenious and eloquent counsel for the remonstrants. And I cannot, in the outset, blame at all the Eastern Company for striving to make the best of their case. Their route has been fastened on them. The blunder has been made. The past is incurable. The necessity of steering by compass and the sound of the fog-bell, is upon them, and they cannot avoid it or get rid of it. They do right to defend themselves, and nobody can blame the pretty, poetical little fancies in which they indulge. "What can't be cured must be endured;" and I will do the whole body the justice to say that they have gone to the very verge of veracity in making their defence. But, Sir, "*de gustibus non est disputandum.*" The learned, though somewhat fanciful gentleman, has eloquently set forth the delight which must be felt by all, in catching an occasional glimpse of the harbor as they cross in the boat. As if the business people of Danvers, Lynn or Saugus, would care to stop, or think of stopping to gaze upon the threadbare and monotonous beauties of Boston harbor, when hurrying to transact their affairs. Unfortunately, too, for the gentlemen's case, in this respect, it so happens that these same people have compelled this company to arch their boat all over, and wall

it up all round, so that nothing at all can be seen. Then the delight of meeting and shaking hands with an old friend! Conceive, Gentlemen, the pastoral, touching, pathetic picture of two Salem gentlemen, who have been in the habit of seeing each other a dozen times a day for the last twenty-five years, almost rushing into each other's arms on board the ferry boat,—what transport! We can only regret that such felicity should be so soon broken up by the necessity of running a race against time, or fighting with each other for a seat in the cars.

They urge, however, that the passage is short, only eight or ten minutes—an average of nine by “Shrewsbury clock.” I regret, too, that these minutes are so much less profitably employed by our friends, than by gaining three miles of start on our rail-road. And they agree that the average of detention, over this nine or ten minutes, has only been four seconds. What does that profit to him who has been delayed six hours? Or to him who has lost the opportunity to pay his note at the bank by ten minutes? Or to him who stands, for hours, at the slip, and sees his wife or sister tossing about in the ice within six feet of him? Why, Sir, you might as well go to the soldier, on the eve of the battle, and say to him, “You will be killed, I dare say; but consider that your death is an average of only one good scratch a piece distributed among your regiment?” Will he thank you for such consolation? I rather suspect not. The gentleman shows that the corporation have tried every expedient, and taken every measure to remedy all inconvenience. I agree with him, and will take his own argument to prove that the evil is permanent and incurable.

I am almost ashamed to consume further time on this point. The truth is as I have stated it, that a ferry is an evil, a nuisance; and that in every practicable case a bridge has a decided, appreciable title to be preferred. The committee of 1836 were of the same opinion. Every respectable writer holds to it. My colleague has already

cited several authorities from the Westminster Review, and from the British Board of Trade. But I understand our adversaries quote from the same Review, and place their argument on the ground that a rail-road ferry is recommended in one or two instances. I dare say it may be so. In those cases a ferry was inevitable and could not be got rid of. The corporators and people were therefore obliged to submit to it, as in this country we are obliged to submit. We cannot have a bridge between Norwich and Long Island, nor between Jersey City and New York, and we take ferries because we cannot help ourselves. But will the gentleman seriously say that he can find one man out of Bedlam who, other things being equal, will actually prefer a ferry to a bridge? We have produced witnesses by scores, and they have uniformly concurred in stating the enormous personal and practical evil and inconvenience. The witnesses for the remonstrants have not materially changed the case; and though my brother and the corporation were far too politic to select their evidence from those who most severely feel the inconvenience and evil, yet their own witnesses are compelled to concur with ours that the rush and delay at the ferry are evils at once incurable and intolerable. It can no longer be doubted that the general and growing public sentiment is altogether against ferries in themselves. COL. FESSENDEN, who built the road, and is responsible for it, is yet obliged to admit, that "public opinion is so fast settling against this ferry, that he believes, on his oath, the corporation will be obliged to abandon it." I agree with him, if they were the last words I ever spake, "they will be obliged to abandon it!"

Sir, the travelling public in general has no motive to complain of the management of the Eastern Rail-road in other respects; it is administered as well as any rail-road can be; its fares are quite reasonable; its cars are convenient and commodious; and its attendants obliging, civil and experienced. But it is the ferry of which universal complaint is made. The objection made to draw-bridges,

in 1836, is completely obviated by long experience. COL. FESSENDEN, the great author of this objection then, is now compelled to allow that trains are not delayed by being obliged to cross over draws, and it is a proven fact, that on a route like ours, there would not be the detention of ten minutes in as many years. The truth is, and there is no help for it, that the existence of the ferry on the Eastern road must forever operate to render that which we propose the shorter and quicker of the two. Nothing in the chapter of accidents can avail to disprove this. Our trains start just as their boat unmoors, and when it reaches the opposite side we are three miles on the way. Our curves, at least on this side of Danvers, are immaterial; our grades do not exceed forty feet, and throwing in every thing which even they claim, these nine or ten minutes of advantage in start they can never recover in the whole flight of time. On the return route our advantage is greater by five minutes more, for we land our passengers in Blackstone street,—in the very centre of business, and contiguous to the heart of the city,—while they are wading through mud up to the middle, on a wharf, and in streets always building but never built. I hold this fact, clearly proved, that the petitioners for the new road, with all their aggregate interests,—the 43,000 passengers from Danvers, and large numbers on the other parts of the route,—can, by this route, be accommodated by a securer, pleasanter, shorter and more preferable route, exempt from hazard and much more agreeable—to be decisive of the question. It outweighs every thing advanced on the other side—injury to the stockholders of the Eastern road and all. How many those stockholders are, how much their individual loss may be, heaven only knows, for no evidence has been offered to these points. But we do know, that 43,000 passengers from one town alone are petitioners for the new route.

Again, let me remark, the counsel for the remonstrants does not seem to consider that not one solitary ton of

merchandise from Danvers can be, in the least, accommodated by the course he promises and for which he contends, with the advantages of transportation by steam power. And he seems to forget that the great question we present, with regard to freight, is whether some 15,000 tons of merchandise may be allowed the advantages of steam conveyance, or be compelled forever hereafter, as well as now, to depend upon horse power. Surely, Sir, this is a strange oversight. The Eastern Rail-road, from the very circumstances and nature of the case, is not a carrier of merchandise. It depends, for its revenue, upon the transportation of passengers, and this duty it performs, as we allow, so far as its ferry will permit, as acceptably as any other road. But, from the very nature of the case, it cannot carry merchandise and heavy freight, and even if the branch to Danvers were really built, still the result would be that not one ton of Danvers freight would enjoy the advantages of steam conveyance. There is, indeed, no proof that any freight at all is conveyed on the Eastern road between Salem, or Lynn and Boston, except by particular and special agreement. The road is a great competitor for the travel to and from the east ; it runs long lines of trains for the sole purpose of attracting passengers ; and it succeeds in this because it is impossible for horse power to compete with it. But as regards freight, so far as we are concerned, it is proved that not one pound of tonnage of Danvers is conveyed by steam power ; and if the Eastern road were to run a car from Salem to Danvers and back, ten thousand times a year, still the main body of the Danvers merchandise would continue to be transported in the same way as now. From the very nature of the case it is impossible it should be otherwise. Marblehead, too, sends no merchandise to Boston by the rail-road, nor Lynn either. Yet, till within the last two years, there was a good deal of rail-road freight between Boston and Lynn, abandoned at last only because the road would not transport merchandise, except in the after part of the day.

But, in the case we present, the merchandise would be transported to and fro at the most convenient times—the parties in charge always travelling with it—to a central and convenient depot in the city, if sent to Boston ; while, by the Eastern road, if conveyed at all from Salem or Lynn, it would be left at East Boston to await a favorable stage of tide for crossing, with the chance of getting a truckman to convey it to the consignees—if it could.

A second consideration, worthy of attention, is, that our road is better than that of the remonstrants, because it will afford the advantages of steam power to many and great interests, which theirs does not, will not, and cannot give. As a proof of this, take the towns of Haverhill and Bradford, with which, in community of trade, Danvers is closely united. Those two towns, with the exception of Lynn, manufacture more shoes than any others in the state ; and Danvers perhaps more of the raw material, leather,—for that manufacture, than any other town. Therefore it would seem natural that there should be an extensive reciprocal trade between them. To some extent, indeed, such is the fact ; but not to nearly so large an extent as might be anticipated, or would be realized were our railroad constructed. On the other hand, the branch to the lower road would not assist or increase this interior trade one atom.

Again. Even if the passengers from Danvers to Salem and Boston could be as well accommodated by a spur from the Eastern road, the thousands of cords of bark annually required by the Danvers tan-yards could not be so well or so conveniently transported as by ours, touching as it does the coasters at the North Field wharves, and proceeding to immediate contact with the tan-yards and workshops of Danvers, at a distance of two miles and a half.

Moreover, the road of the petitioners accommodates and assists certain branches of business to which the road of the remonstrants will give no facility whatever. My learned friend laughs at the granite and ice interests which

we have put in proof. I am not above entertaining regard for those intensely native productions of Massachusetts, and our case is not above deriving what additional strength it may, from the fact that we contribute to their increased consumption and value. Why, Sir, this very granite, so spurned at, and sneered at, affords the means of gaining a comfortable subsistence to from fifty to one hundred industrious laborers, with their families, in the town of Danvers alone. Their fabric goes every where, and finds a market every where ; and, every body acquainted with the subject, knows well that the millstones of New Orleans, and many equally remote cities, are the production of Danvers labor upon Danvers rock. The route we desire skirts the margin of a pond of the sweetest, purest and best water in the world—in comparison with which that of the famed “Wenham Lake” would not be deemed fit for an ox to drink—and will convey to market, annually, 95,000 tons of its ice, to be dispersed from Boston all over the world, and sold every where. And I put it to all, Mr. Chairman, that no fear of ridicule should operate to deter the government from assisting and encouraging the improvement of these gifts of nature—that stern and hard mistress, in most respects, to the people of this Commonwealth—by the best and most satisfactory means. Such means, certainly, are not offered by the remonstrants.

Further. The location of our depot, in Boston, is far more advantageous than theirs, and will enable the cars from Danvers to convey their freight directly to the purchaser, in the very heart of the city business. It will also make a saving of several minutes, five at least, by the testimony of COL. FESSENDEN, in every trip. How much that will amount to in the aggregate life of the business men along the line, you can estimate ; and it is for you to say what weight should be given to this consideration of so far lengthening the lives, developing the industry, and encouraging the hearts of this population.

Our road is preferable to the Eastern, as I have already

urged, because—besides much better accommodating Danvers—it will give a large increase of accommodation to all the rest of the people along the line, and, to a considerable portion, accommodation for the very first time. Saugus has never yet enjoyed the luxury or privilege of rail-road communication, while that with West Lynn has been poor, and quite insufficient. The large increase, and the entirely new accommodation we shall afford to this 6,000 people—the nearer, speedier, safer, securer, better road—the far superior terminus—I submit that this alone is sufficient reason to grant this charter. I do not wonder at the spirit and zeal manifested by the inhabitants of Lynn in their town meeting, and breathing out in every line of the admirable resolutions before the committee. Then, to the 10,000 or 15,000 tons of Lynn merchandise, we give railway accommodation, whereas, not one single pound has it to-day. I care not what arithmetician, or what truckman, comes here to reason on matters of detail—I say that here is the evil in existence, and you, Gentlemen, will care that it is remedied. Baggage wagons, which now transport this freight, are ten thousand miles and ages behind the times, and whether they carry it for \$2,50 or \$12,00 a ton, the necessity of their use is an oppression; an exaction on the county of Essex. I agree entirely with the statement of Mr. WEBSTER, that a rail-road for freight, at a dollar and a quarter per ton, will drive every baggage wagon off the track in three months. And why should not there be such a car, for light freight, attached to passenger trains? I cannot understand the difficulty. As testified, it might be placed between the passenger cars and the tender, in the place occupied, on long lines, by the baggage cars. And since there will scarcely be one pound of personal baggage on our route, while on most others there are one hundred pounds per individual. I submit that the addition of a car for light freight will be no practical inconvenience whatever. As to heavy freight, it is proposed to be carried by two trains, morning and night.

A passenger car is attached to these trains for the benefit of persons called into town early, or detained there till late, and to whom speed is an object of no great urgency. Surely there is nothing impracticable in this, and if the theory that circumstances will require this be extravagant, at least there can be no harm in it.

Assuming, then, as we are justified in doing, that additional accommodation is required by, and is to be granted to Danvers, the only question is as to the mode in which it shall be afforded. And, in this respect, our proposal I contend to be far more worthy of consideration than that of the Eastern Rail-road. I do not say that the resulting benefits to West Lynn alone—or to Saugus alone—would be sufficient to warrant the construction of a new road; but I do say that the incidental and auxiliary advantages to these towns, offered by our road, and necessarily denied by the other—added to the conceded necessity of further and larger accommodation to Danvers—are of themselves sufficient to determine the question in our favor. Danvers, indisputably—West Lynn, indisputably—are *better* accommodated by our road, while Saugus is accommodated by it, and it alone. Saugus can have a rail-road communication with the metropolis only and solely by the means we propose. These remonstrants—who knew so well how, and where and when to promise—promise nothing at all to Saugus. And if the 1,200 people of that town—making, to and fro, 9,000 passages per annum—and the 2,000 tons of merchandise annually produced by those people, are deserving of attention at all, it is clearly proved that they can be accommodated by our means, and our means only. I will not say that a rail-road should be built solely on account of these interests; but where the question is between two lines, then I say that every fragment of public accommodation is entitled to be considered. And I also contend that the 9,000 passengers and 2,000 tons of freight of Saugus are by no means undeserving the regard of this committee and of the Legislature.

Mr. Chairman : In approaching the close of the remarks with which I have to trouble the committee in this case, I beg leave to present, in a condensed view, the points on which the petitioners rely.

That increased rail-road accommodation is due to Danvers, Lynn and Saugus, is not only proved, but not denied.

That, of the alleged two methods of securing such accommodation, by a branch from Danvers to the upper, or to the lower route, that which we propose is decidedly favored by the whole public, while it is opposed only by the private interests of the Eastern Rail-road Corporation.

That to more than 110,000 passengers per year, our road will afford a passage to Boston by land, avoiding all ferries, and in all respects, speedy, safe, secure, comfortable and agreeable.

That it will give accommodation and rail-road transportation to 30,000 tons of merchandise now deprived of such advantages.

That it will accommodate the trade of Danvers, Marblehead, Lynn and Saugus, which the present road does not.

That it will greatly aid and increase the trade and productions of Essex county, in various respects—especially as regards granite, ice, bricks and fish—while the Eastern route and its branch can do nothing towards this purpose.

That it has a much more central and convenient terminus in the city of Boston than the Eastern road.

That it will afford to the town of Saugus rail-road accommodation never yet enjoyed—to West Lynn greatly enlarged accommodation ; and that it will, in both towns, materially increase the value of now unoccupied lands.

In this aspect, Sir, which I conceive to be clearly established throughout, I take it there is no room for deliberation at all, unless the committee are satisfied that we are, body and soul, the property of the Eastern Rail-road Corporation, and belong to them exclusively. It is possible that the grant of our petition might interfere with the pecuniary advantages of the stockholders of the Eastern road;

that it might detract one, two, three, four or five per cent., as the case may be, from their annual profits. But of what account is that when we consider how much it will add to the convenience, time, comfort, health and life of the 45,000 passengers from Danvers and the many other thousands along the line ! That it should take a half per cent. or three per cent. from the profits of the Eastern stockholders, I regret as much as my learned friend. But I put against this private loss the increase in the value of every pound of leather and glue, every ton of iron, granite and ice, to the public at large. We may perhaps diminish the wealth of a few hundred individuals, by a small amount, but, on the other hand, we stimulate the industry, quicken the labor, and develop the resources of thousands upon thousands. Look upon "this picture and on this," and then decide the question on rational grounds.

The objection of the learned counsel that our stock will never be taken is utterly futile. There is not a particle of controversy on this point. Danvers alone can take the whole stock to-day, and it would be better for her to sacrifice \$100,000 in addition, rather than not have the road.

The gentleman has expatiated, likewise, upon the heavy expenditure and burden upon the public consequent upon the building of this road, and contends that it will cost a million and a half. Now, Sir, what good so stupendous an exaggeration can do, it is for the equity and sense of justice of the committee to determine. Why cannot the remonstrants look us fairly in the face ? As well might we contend that the cost of the whole Eastern road, \$2,000,000, should be added to that of their branch to Danvers, as a fair estimate of its cost. The statement is unfair and disingenuous. We build no road on this side of Malden ; we only blend and mingle with an old established road—the only legitimate eastern rail-road. The route will cost us \$300,000, and that is all. The counsel contends, too, that we have made no allowance for land damages in our calculation. But, I say, Sir, that we may well complain of

the intense unfairness of the gentleman. Mr. HAYWARD's estimate contains every item of expense, and distinctly speaks of the land damages.* We have gone to the public, and have come before the Legislature on that ground and on that report ; and the counsel on the other side does us the most groundless and cruel injustice in the assertion he has made. Besides, Sir, he overrates these land damages by \$30,000 at least ; he calls them \$62,000, whereas by all the testimony before you—land-holders along the route and all—it is proved to be not half so much. But, to gratify our friends on the other side, we are willing to add \$30,000 to Mr. HAYWARD's statement, which will make \$300,000, including \$40,000 for running gear. That is all. The million and a half my friend is so frightened at, is cut down at once to one fifth of that sum. We know, Sir, what we are about, and are well satisfied that thirty per cent. of the receipts we may—not only reasonably but almost certainly—calculate upon, will carry the business of the road forward forever, from Malden to Boston.

But, finally, the learned counsel has had much to say about the evils of competition between rail-roads. He will not threaten us with what his road will do if this new one is granted. Oh, no ! he "*could* a tale unfold," but does not choose to do it. He only says that the Eastern road will forbear to make improvements ; that it will not complete its double track. What then ? Is it not already, Sir, according to my able and experienced friend, the best road "in all Andalusia ?" Is it not as skilfully built, and as well, if not better, managed, as any other road whatever ? Where then will be the harm even if the double track is not built ?

But my learned brother, whose extensive and well earned reputation mainly rests upon his successful exer-

* Mr. Choate here read the extract cited by Mr. Russell from Mr. Hayward's report, as to land damages. See Appendix, p. 14.

tions in favor of just such lines as that we now ask for, cannot have meant to deny the general benefit to the public resulting from the principle of competition itself. Why, Sir, *prima fronte*, competition is the life of trade and the great promoter of public good. It may, perhaps, sometimes be otherwise in railway experience, for circumstances alter cases. But the result of the whole history of English experience, on this subject, is that competition among railroads has done no harm whatever, except, in some cases, to slightly raise the fares. There are no deserted tracks from this cause ; there has not been a pin's worth of damage to the hair of a man's head. In some cases, it is true, competing lines have become united under one corporation, and fares have been somewhat increased ; but the general, grand result, has been the establishment of a system of railway communication, the like of which the sun has never looked upon. And if this evil be apprehended, what can be easier than for the Legislature to fix the maximum of fares which shall be charged ? In truth, Mr. Chairman, all the arguments of my learned brother, respecting competition, are entirely unworthy of him, and—were they from any other source—unworthy of serious notice. Why, Sir, our state map beams and sparkles, like the firmament, with competing lines. The Eastern road itself is a competing line to Berwick ; the Maine Rail-road runs, side by side, with the Lowell, as far as Wilmington ; there are many competing lines between Boston and New York. Away, then, with all this stuff ! And above all, away with it when pressed by these remonstrants, whose existence as a rail-road corporation is directly in controversion of the principle and doctrine they here set up.

All that, however, has nothing to do with this case. We only ask for leave to branch out to one of two roads—this same theory of “branching out” being the great pet of our opponents. We demand no parallel and competing road. We request only to be allowed to branch out to that which will best accommodate us and our inter-

ests. And I join issue with my brother, in his statement that it would be bad policy in the state to grant this charter. Bad policy to meet a popular demand by a Legislative supply? We have shown that rail-roads were made for the people, as the Sabbath is made for man, not the people for the rail-roads; and I will only say—replying to the gentleman—that the bad policy would lie in refusing this application. If the people shall see, in a case like this, that the government disregard the rights of twenty-five thousand inhabitants, having occasion to send and receive 30,000 tons of merchandise per annum, from the apprehension of a contingent effect on existing rail-road stock—then, Sir, the days of that administration which sustains such a policy, are numbered. The inscription is written, “Mene, Mene, Tekel, Upharsin!”

Sir, I know the people of Danvers, and I owe them much. I judge of the rest of the citizens of Massachusetts by them, and so judging, I know them to be honest, just, and ready to sacrifice the last drop in their veins rather than infringe the legal rights of any individual. And I am entirely satisfied that such a people will not be called on to see it declared through their representatives in the Legislature, that the servant is greater than his master, particularly when the servant is a private corporation, however respectable, and in other respects however generous, and that master the whole public.

“For this is not the liberty which we can hope, that no grievance ever should rise in the Commonwealth; that let no man in this world expect; but when complaints are freely heard, deeply considered, and speedily reformed, then is the utmost bound of civil liberty attained that wise men look for.”

APPENDIX.

(A.)

Estimate of Income.

North Salem.—75 passengers, daily, each way ;	
313 days is 46,950, at 40 cts., - - -	\$18,780 00
5,000 tons freight, per year, at \$1.25, - -	6,250 00
S. Danvers.—125 passengers daily, each way, 78,250,	
at 40 cts., - - - - -	31,300 00
15,000 tons freight, per year, at \$1.10, - -	16,500 00
West Lynn.—100 passengers daily, each way, 62,600,	
at 25 cts., - - - - -	15,650 00
15,000 tons freight, per year, at \$1.00, - -	15,000 00
4000,000 bricks, at 75 cts. per M. - - -	3,000 00
2,000 tons fish, at \$1.00, - - - - -	2,000 00
Saugus.—10,329 passengers, per year, at 25 cts., -	2,582 25
2,000 tons freight at \$1.00, - - - - -	2,000 00
	<hr/>
	\$113,062 25
Ice, coal and granite, not included in the above.	

(B.)

Estimate of Construction

Of Rail-road from Malden to South Danvers, from the survey and estimate by Mr. Hayward, engineer, after consulting some of the most experienced contractors in the United States. The cost of superstructure may be a little too low for the present price of iron, but taking the average price for the last six years, the estimate is ample.

Earthwork, 175,000 yards, at 15 cts. per yard, -	\$26,250 00
Bridge masonry, 1,800 yards, at \$3.00, " " -	5,400 00
Culvert do. 1,745 yards, at \$2.00, " " -	3,490 00
Three box culverts in marsh, at \$100.00 each, -	300 00
Pile bridges, 600 feet, at \$12.00 per foot, -	7,200 00
Wood-work of road bridges, - - - - -	900 00
Fencing 10 miles of road, - - - - -	6,400 00
14 signs and crossings, - - - - -	1,260 00
Superstructure, at \$9000 00 per mile, - - -	108,000 00
	<hr/>
	\$159,200 00

APPENDIX.

Danvers to north bridge, Salem.

Earthwork, 69,798 yards at 16 2-3 cts. per yard,	-	\$11,633 00
Bridge masonry, 900 yds. at \$3.00 per yard,,	-	2,700 00
Culvert do. 200 yds., at \$2.00 per yard,	-	400 00
800 feet of slope wall, at \$1.25 per foot,	- -	1,000 00
Three box culverts, at \$150.00 each,	- - -	450 00
7,000 yards sea wall,	- - -	11,375 00
Pile bridging, 100 feet at \$12.00 per foot,	- -	1,200 00
Wood-work of road bridges,	- - -	400 00
Six signs, two crossings,	- - -	540 00
Superstructure, (including side track) 1 $\frac{3}{4}$ miles, at \$9,000 00 per mile,	- - - -	15,750 00
Fencing 1 $\frac{3}{4}$ miles,	- - - -	1,120 00
		<hr/>
		\$46,568 00
Engineering and contingencies,	- - - -	15,000 00

Depots.

Malden,	- - - -	\$2,000
Saugus,	- - - -	500
Lynn,	- - - -	2,000
Danvers,	- - - -	3,000
Salem,	- - - -	3,000
		<hr/>
		\$10,500 00
		<hr/>
		\$231,268 00

The above does not include any estimate for land damages, which will be very small. No valuable land will be taken except at Lynn and Danvers. Many of the landholders have been consulted, and they are not only willing but anxious that their land should be taken. Some have offered to give their land sooner than not have the road built. From fifteen to twenty-five thousand dollars would cover all the damages satisfactorily.

(C.)

Cost of Construction, per mile, on Marshes.

Iron,	- - - -	\$8,000 00
2,000 ties or sleepers, at 30 cts.,	- - -	600 00
Longitudinal sills, 3 by 8 inches—21,120 at \$10.00 per M,	- - -	211 20
Road bed, 15 feet wide, 3 feet high, 8,800 cubic yds., marsh mud bottom and gravel top, at 12 $\frac{1}{2}$ cents,	- - -	1,100 00
Laying rails and allowing for contingencies,	- - - -	1,088 80
		<hr/>
		\$11,000 00

(D.)

The following petition, reported to the town of Danvers, January 23d, 1845, was unanimously adopted by them, and presented to the Legislature, at its session in that year. It is from the pen of the Hon. Elias Putnam, of that town:

*To the Honorable the Senate and House of Representatives of
Massachusetts, in General Court assembled:*

The inhabitants of the town of Danvers, in town meeting assembled, to act on the order of notice from the Legislature, on the petition of David Pingree and others, for a rail-road through Danvers, to unite with the Maine Extension Rail-road, at Malden, would respectfully represent,—

That they consider the question arising on said petition, to be one of great importance, in its effects, on the future interests and prosperity of the town of Danvers.

The great benefits that are derived from the facilities of rail-road transportation, from many of the principal business towns in the State, with the city of Boston, has demonstrated the wisdom of the government in establishing such roads, and appeals strongly to the Legislature to continue to adhere to a policy that has produced so much public good. The peculiar situation of Danvers, with respect to rail-road communication, and the circumstances that have operated to place the town in its present unfavorable position, seem to us to be a proper subject for the notice of the Legislature. At the time the committee of the Legislature had the hearing of the petitioners for the present rail-road from Salem to Boston, there was a petition, also in hearing before the committee, for a rail-road from Salem, through Danvers, to Boston, by way of Chelsea. It was shown by the petitioners for this road, as they thought, that the public interests would be much better promoted by locating the road agreeably to their petition, than by tunnelling the town of Salem, and running through East Boston. But such was the influence exerted by the owners of East Boston, by aid of the ablest counsel, and all other needful appliances that could add interest to the success of their enterprise, that the claims of the town of Danvers seem to have been entirely lost sight of, in locating the road, and for no other reason, that we can conceive, but to give success to the East Boston speculation. The consequence is, that Danvers is not connected with any rail-road, although it has a large and increasing business, intimately connected with Boston, and constantly requiring much transportation of merchandise and passengers; and we are confident that there is no other town, in the State, that has anything near the amount of business requiring transportation to Boston, that is not connected with the city by a rail-road. We believe it is now generally admitted that the rail-road from Salem to Boston is not located in the right place to accommodate the public travel; and that the Ferry at East Boston is such an evil, that it will never be satisfactory, while it is

known that a road can be had to enter the city without a ferry, and end at a much more convenient place for a depot. Thus situated, the question that seems first to arise, is, whether the town of Danvers, and the other towns that are to be benefitted by the construction of this new rail-road, shall be deprived of the privilege of constructing a road for their own accommodation, because the Eastern Rail-road Company and the East Boston Company, have caused the present road to be located in the wrong place? And we have the fullest confidence that the Legislature will decide this important question with a true regard for the rights, as well as for the interests, of all parties, unawed by any extraneous influence, which is all we ask or hope for at their hands.

We believe that the evidence will show that the route for the road is feasible, and highly favorable for its construction, and that there exists a necessity for the establishing of the rail-road, prayed for by David Pingree and others. And we respectfully request the prayer of said petition may be granted.

A true copy of the original petition.

(Signed.)

Attest: JOSEPH SHED, *Clerk of the town of Danvers.*

At a meeting of the inhabitants of the town of Danvers, qualified to vote in town affairs, holden at Union Hall, in the South Parish, in said town, on Thursday, the twenty-third day of January, A. D. 1845, a committee was appointed to consider what order it was proper for the town to adopt, in relation to the petition of David Pingree and others, and they report the foregoing petition, which was unanimously approved by the town.

Voted, That the annexed petition be presented to the Legislature, in the name of the town, as expressing their opinion on the petition of David Pingree and others.

Voted, That nine persons be appointed to represent the town, before the committee of the Legislature, and to adopt all such measures to advance the interests of the town, as they may think proper.

And John W. Proctor, R. S. Daniels, Elias Putnam, Eben. Sutton, Benjamin Porter, Lewis Allen, Samuel P. Fowler, Henry Poor, and Dr. George Osborn, were separately nominated and chosen.

True extracts from the Town Records.

Attest: JOSEPH SHED, *Clerk of the town of Danvers.*

At the same meeting, the following order, reported and drawn by John W. Proctor, Esq., was unanimously adopted by the town:

In regard to the petition of D. A. Neal, as President of the Eastern Rail-road Corporation, for leave to construct a branch rail-road to Danvers, the inhabitants of Danvers, in town meeting assembled, beg leave to say, that while the existing incumbrances to the convenient passing to Boston, over the Eastern Rail-road, remains at the ferry at the southerly termination of this road, it would not be possible for said road to afford the inhabitants of this town such reasonable rail-road accommodations as they have a right to ask; and, therefore, they cannot assent to the granting of said petition.

APPENDIX.

v

At one of the largest and most excited town meetings ever held in Danvers, (excepting at a general election), holden on the fourth of February, 1846, the following resolution was adopted by a very great majority :

Resolved, That we approve of the petition of David Pingree and others, for a rail-road from Salem, through Danvers, to Malden and Boston; that we believe public exigency requires a route into Boston, unencumbered by a ferry, and that the public never will be satisfied without such an avenue; that the construction of such a road will be of great importance to the town of Danvers; that it will add to its convenience, prosperity, and general advancement; and that it is worthy the efforts of the citizens of Danvers, till success shall crown their efforts.

(E.)

The following resolutions were unanimously adopted, at one of the fullest meetings ever held in the town of Lynn.

At a legal meeting of the inhabitants of the town of Lynn, held on the 11th inst., the following votes and resolutions were passed, viz :

Voted, That a committee of five persons be chosen to report Resolutions expressive of the sense of the town, in favor of the petition of David Pingree and others, on the subject of a Rail-road from Salem to Malden. Thomas J. Marsh, John Alley, 3d, George W. Raddin, Stephen Oliver, and William A. Phillips, were chosen to be said committee.

Voted, unanimously, that the following Resolutions reported by the committee be adopted. 373 voting in the affirmative.*

Whereas, A petition has been presented to the Legislature by David Pingree and others, praying for a charter to construct a rail-road from Malden, through Saugus and the westerly section of Lynn, to Danvers and Salem, and whereas an order of notice has been served upon the town clerk of Lynn, notifying all those interested to appear and show cause, if any they have, why said petition should not be granted—therefore,

Resolved, That we, the citizens of Lynn, in town meeting assembled, being called according to law to act upon said order of notice, do most heartily approve of the proposed road as highly essential to the public convenience, and of the utmost importance to our welfare and prosperity.

Resolved, That we are fully satisfied, from our knowledge of

* The test vote, at the above meeting, was taken in an early period of the meeting, on a motion of Mr. Gould Brown to instruct the above Committee to report resolutions against the petition of David Pingree. At this time, there were estimated to be present by the witnesses, from six to eight hundred persons, and only three voted for the instructions. Regarding this as the test vote, many did not remain through the long discussion had on the resolutions by the friends of the Eastern Rail-road.

the intended location of said road, that it offers one of the most feasible routes, and can be built at comparatively small expense, and will receive more than sufficient business for its support, at the same time furnishing necessary rail-road facilities, which the Eastern Rail-road does not and cannot supply, owing to its unfortunate location and terminus.

Resolved, That our fishermen and manufacturers will be greatly benefitted by the proposed road, and a general prosperity in these branches of business would be promoted through our community.

Resolved, That the ferry at East Boston, and the access to and from said ferry, are in themselves objections of sufficient importance to justify our preference for the proposed road, and that we do but express the voice of a numerous portion of our female population, who have long felt the inconvenience of the crowd and confusion in passing to and from the boat, and of being compelled to take seats in the cars with men who are strangers to them.

Resolved, That to our knowledge many of our female population do now go to Boston by the omnibusses and other conveyances, rather than submit to the inconvenience of crossing the ferry.

Resolved, That the stockholders of the Eastern Rail-road can have no just cause of opposition to the proposed road, as the petitioners have no other object in view than to promote the comfort and prosperity of the citizens of this town and the public generally; that the opposition of the Eastern Rail-road corporation is unjust and oppressive, inasmuch as it brings the wealth and influence of a large and rich corporation in conflict with an industrious people, who are praying their legislators to grant them such comforts and conveniences by rail-road as are granted to all or nearly all towns in the State which are similarly situated.

Resolved, That the present location of the Eastern Rail-road was protested against, at and before the time of its location, by some of the most wealthy and respectable citizens of this and other towns, and nearly the same route as now prayed for by David Pingree and others, was prayed for by Thomas H. Perkins and others.

Resolved, That, relying on the justice of the Legislature, we do appoint the selectmen* to present our views to them, and to urge the passage of an act empowering David Pingree and others to construct and maintain said road, as prayed for in their petition.

Voted, To refer the petition of the Eastern Rail-road Corporation to the foregoing Committee, and that they be requested to report Resolutions on the same.

Voted, unanimously, That the following Resolutions reported by the Committee be adopted.

Whereas, a petition has been presented to the Legislature by the Eastern Rail-road Corporation for liberty to alter the location of their track in this town, and whereas an order of notice has

* In connection with the following Committee, viz.: Andrews Breed, Joshua Webster, George Hood, Cyrus Washburn, James Newhall, Jr., Samuel J. Ireson, Jacob Purinton, John Alley, 3d, Thomas B. Newhall, Abijah Walden, Stephen Smith, and Stephen Oliver.

been served on the town clerk, notifying all those interested to appear and show cause why the prayer of said petition should not be granted—therefore,

Resolved, That we, the citizens of Lynn, in town meeting assembled, being called according to the requirements of law to act upon said order of notice, do protest against such alteration of said track, as it would be of no public benefit, as it does not obviate the objections to the ferry at the Boston terminus of the Eastern Rail-road, neither does it give us a communication with the northern and western sections of New England, which we ought and can have by the Salem, Danvers and Malden road—and which alteration is now evidently proposed to defeat the petition of David Pingree and others, for such rail-road facilities as our comfort, convenience and prosperity require.

Resolved, That the town clerk cause an attested copy of the Resolutions, and action of this meeting thereon, to be forwarded to the Legislature, and published in all the newspapers in this town and county, and the Boston Courier, Boston Daily Times, and Massachusetts Ploughman.

A true copy of Record.

Attest : THOMAS BOWLER, *Town Clerk*.

LYNN, Feb. 11th, 1846.

(F.)

BOSTON, February 19, 1846.

CHARLES MINOT, Esq.,

Superintendent of the B. & M. R. R.

Dear Sir:—As some evidence was given, this evening, before the Committee on Rail-roads and Canals, going to show great detention on your road, in consequence of the draws, will you please state, in reply, if accident or detention often occur, on your road, on account of the draws. I wish your opinion, also, in regard to your depot accommodations. Could you not accommodate 150 to 200,000 additional passengers, per year, if brought in trains entirely under your control and direction?

Yours, respectfully,

JOSHUA WEBSTER.

(G.)

BOSTON, February 20th, 1846.

JOSHUA WEBSTER, Esq.,

Dear Sir:—In answer to the first enquiry in your letter of yesterday, as to our liability to detentions at the draws, I beg leave to state, that I do not now recollect that we have ever been detained, in consequence of the draws, more than twice—once, for perhaps five or six minutes, and another time, eight or nine hours,

at the draw on the Mystic River bridge, by reason of a large vessel getting aground there, before the channel was excavated.

In answer to your second enquiry, as to our accommodations for 150 to 200,000 additional passengers, at our Boston depot, I would say, that with the additions we propose to make to our Passenger Depot, I think we might, without very great inconvenience, accommodate that additional number of passengers, by our own trains, or trains entirely under our own control and direction.

Respectfully yours, in much haste,

CHAS. MINOT, *Sup't B. & M. Rail-road.*

(H.)

The following are among the remonstrances presented to the Legislature, against the present location of the Eastern Rail-road :

(Copy.)

To the Honorable the Senate, &c. :

The undersigned, inhabitants of Salem, respectfully represent—

That, in their opinion, the several petitions of George Peabody and others, and of Thomas H. Perkins and others, for rail-roads from Boston to the line of the State of New Hampshire, ought not to be granted,

Because it appears from the inspection of the respective plans of these rail-roads, that the southerly terminus of the rail-road prayed for by George Peabody and others, is at Noddle's Island, East Boston, and that the southerly terminus of the rail-road prayed for by Thomas H. Perkins and others, is at Chelsea, a ferry intervening, in each case, between the terminus of the rail-road and the city of Boston.

In the opinion of your remonstrants, the public convenience imperatively requires that any rail-road to be constructed between Boston and Salem, should be continued to and into the city of Boston, terminating, as near as may be, to the rail-roads leading to Providence, Worcester, and Lowell, thus forming a continuation of the great line of travel from the East to the South and West.

The petitioners, in either case, have no property in, or control over, the ferries at which they propose to terminate their roads; and the interest and convenience of the public ought not to be jeopardised by the possible collision of interests of the rail-roads and ferries. The crossing a ferry must, at all times, be inconvenient to passengers on the rail-roads, and some times dangerous, causing delay and vexatious detention to persons anxious to arrive at the termination of their journey, in the city of Boston.

The above specified objections are equally strong against both of the contemplated routes. But there is another objection, which, in the opinion of your remonstrants, applies with great force to the route of the rail-road prayed for by George Peabody and others, and which, as inhabitants of Salem, they deem very strong and important.

This route is from Lynn, through South Fields, in Salem, *across the harbor, cutting off the navigation to some of the best wharves and principal places of business in the town, through the very centre of the town*, crossing, in its course, not fewer than sixteen streets, several of which are great thoroughfares, making necessary a deep cut through the middle of the town, from north to south, to be crossed, in some cases, by bridges elevated above the present level of the streets, thereby occasioning great inconvenience and a material diminution of the value of their estates to persons living in the vicinity of the rail-road, and making a communication between the parts of the town thus separated by the rail-road, unsafe to the citizens generally—wherefore your remonstrants pray that no leave be granted to construct a rail-road on either of the proposed routes.

DAVID PINGREE and others.

(I.)

To the Honorable the Senate and House of Representatives of the Commonwealth of Massachusetts, in General Court assembled.

The undersigned petitioners, would respectfully represent, that they have learned that two routes for a rail-road from Boston to Salem, are now under the consideration of the Legislature—one ending at the East Boston ferry, which must forever remain divided from the city, by a ship channel, over which no bridge can be erected,—the other ending at the Winnissemmit Ferry.

They would further represent, that a rail-road from Boston to Salem, in order to be a permanent benefit to the community, must terminate within the city of Boston, either by a junction with the Lowell Rail-road, or by a separate branch over the old Charles River Bridge, (if permitted.) They therefore pray that, before a charter should be granted to either of the present petitioners, time may be allowed to survey the last mentioned route accurately, to draft a map or plan of the same, and to present a petition for such a route as shall terminate within the city of Boston.

O. Goodwin,
I. P. Bradlee,
Jno. Prince,
Eben Francis,
Simon L. Greene,
D. Hall,
C. W. Apthorp,
T. K. Pitman,
Benj. Gould,
E. Dwight,
E. Hersey Derby,
D. Sargent,
Jos. May,

Timothy Williams,
H. Andrews,
L. M. Sargent,
Stephen Brown,
Wm. Appleton,
Samuel G. Perkins,
Joseph Balch,
E. Bartlett,
Gideon Snow,
Francis Coffin,
P. Upham,
Samuel Appleton,
Joseph Tilden,

Richard C. Derby,
B. H. Andrews,
Arnold Welles,
J. G. W. Sargent,
John Heard,
E. Hersey Derby, Jr.
Francis B. Crowninshield,
A. Babcock,

B. W. Crowninshield, by F. B. C.
Henry Cabot,
B. Gorham,
Thomas H. Perkins, Jr.
Joseph Head,
Edward D. Clark,
Samuel Payson,
Edward Brooks.

March 3, 1846.

(J.)

At a legal meeting of the inhabitants of the town of Malden, held on the 2d day of March, A. D. 1846, there being an article duly inserted in the warrant for said meeting, to take into consideration the petition of David Pingree and others, to the Legislature, for a charter for a rail-road from Danvers to Malden, it was *Voted*, That the Selectmen of the town, together with Gilbert Haven, Esq., and Samuel S. Upham, Esq., be a committee to petition the Legislature to grant the prayer of said petitions.

(Signed.)

Attest: THOS. WAIT, JR., *Clerk of the town of Malden.*

To the Honorable the Senate and House of Representatives, in General Court assembled:

The undersigned, in behalf of the town of Malden, would respectfully represent, that the *rail-road* prayed for by David Pingree and others, would be a *very great and lasting* benefit to a large portion of its inhabitants. We do, therefore, *earnestly* and respectfully petition your honorable body that the prayer of said David Pingree and others, may be granted, and as in duty bound, will ever pray.

(Signed.)

GILBERT HAVEN, }
SAMUEL S. UPHAM, } *Committee.*

U. CHAMBERLIN, } *Selectmen*
L. CORBITT, } *of*
G. EMERSON, } *Malden.*

(K.)

Resolutions of Danvers, passed in full town meeting, March 2, 1846.

At the annual meeting of the inhabitants of the town of Danvers, qualified to vote in town affairs, holden at Union Hall, in the South Parish, on Monday, the 2d of March, in the year of our Lord one thousand eight hundred and forty-six, during the time of the day when there was an unusually large concourse of its citizens, the 17th article of the warrant was called up, which arti-

cle related to the order of notice from the Legislature, on the petition of the Eastern Rail-road Company, for extending branches from their road into Danvers, &c., and to become interested in any rail-roads that may be hereafter constructed—the following Preamble and Resolutions were offered, read and accepted by the town, with only two dissenting votes.

Whereas, The Eastern Rail-road Company ask leave of the Legislature to construct a branch rail-road from Salem to Danvers, and for liberty to become interested in new rail-roads which may be chartered: Therefore, the inhabitants of the town of Danvers, in a town meeting legally holden to act on the order of notice on the same, would respectfully represent their views in the following Preamble and Resolves:—

By the exposition which has lately been made, on the petition for the grant of a new rail-road, as prayed for by David Pingree and others, it has now become well known to the public, and to the Hon. the General Court, that Danvers, with her population, her industry, her material, and her position, lying as she does in the direct route between the two cities of Boston and Salem, has long been desirous of, and is entitled to, rail-road facilities with both of these places. This, her claim, has been fully admitted, both by a Committee of the Legislature, and by her great opponent, the Eastern Rail-road itself. It is, also, well understood, that the citizens of Danvers early sought, as a right, on the ground of public exigency, that the projectors of the Eastern Rail-road should run their main line through this town. It is well known that they protested against the ferry—that, failing in their main object, they subsequently looked to the Eastern Rail-road Company to grant them a branch to their main line. In all of which, and for a long time finding their petitions and remonstrances, their interests and rights, unheeded, if not spurned, while other towns, such as Marblehead and Gloucester, with not half the pretensions which Danvers has, have received every accommodation, they have now reached, through ten years' suffering and experience, that point of their endurance, when their interests will submit to no compromise. They ask now for a road from Salem, through Danvers to Malden, to connect with the Boston and Maine Rail-road, and they offer to build it themselves. To the accomplishment of this object, they now bend their energies, and concentrate their efforts, determined that no pretext, either in the shape of a road in which the Eastern Rail-road may *become interested*, or branches from that road to Danvers, or any other *ruse* of their opponents, shall decoy them from the great object of their grave desires. They therefore, after mature deliberation, have come to the determination to pass the following resolves:

Resolved, That the town of Danvers protests against any Rail-road, or branches from Rail-roads, being constructed in, to, or through their town, which shall in any manner or degree tend to defeat or impair, either in length, breadth, location, or terminus, the object of their earnest and solemn desires, viz:—the Rail-road as petitioned for in the petition of David Pingree and others, from Salem, through South Danvers, to Malden.

Resolved, That we believe it will be very prejudicial to our interests to allow the Eastern Rail-road to become interested in other roads, which may be chartered; first, because we regard it as a very singular and unusual request, and one, which, if granted, will give the Company unlimited power; second, because we regard the Company as a sufficiently large monopoly now, exerting a power over the community far too great for the public good, influencing our elections, and opposing with their wealth the wishes and interest of a large portion of the people; third, because we believe the whole intent and purpose of the petition, at this time, is to enable the Company to obtain control of the charter for a new rail-road from Salem, through Danvers, to North Andover, that they may construct the same immediately as far as Danvers, without intending, at least for the present, to complete it to North Andover, and thus monopolize the only convenient location for a route between Salem and Danvers, and force upon us what we have ever opposed, and shall ever continue to oppose, a branch from the Eastern Rail-road, and throw an obstacle in the way of our obtaining a charter for the road petitioned for by David Pingree and others, which road we anxiously regard as essential to the future prosperity and growth of the town; therefore we strenuously oppose the granting of the prayer of the Petition.

Attest :

JOSEPH SHED, *Town Clerk.*

(L.)

*To the Committee for procuring a charter for the Danvers and
Malden Rail-road.*

Gentlemen :—At your request I have called on all the owners of the most valuable land estates, through which the proposed rail-road will pass, in the town of Lynn, and having requested a friend of mine to call on others who own the open fields and pastures of less value, who, with myself, have not found one individual but that is perfectly willing, and most of them expressed a strong desire that the road may be established, especially those gentlemen who are the owners of the most valuable property that it will pass through.

Yours, with respect,

JACOB PURINTON.

LYNN, March 2d, 1846.

(M.)

REPORT OF JAMES HAYWARD, ESQ.,

MADE TO THE COMMITTEE, IN 1845.

[Mr. Hayward stated in his testimony, in this hearing, that the present price of iron would require an addition to the estimate to the amount of the increased price.]

To David Pingree, John W. Treadwell, John W. Proctor, P. B. Chamberlain, and Joshua Webster, Committee of Petitioners for a Rail-road from Danvers to unite with the Maine Extension Rail-road at Malden :

Gentlemen :—The survey undertaken at your request, of a route for a rail-road from Malden, through Saugus, Lynn, and Danvers, to Salem, is completed ; and a map and profile of the country, exhibiting the *topography* of the route, a *trace* of the proposed line, and the grades of the contemplated road, accompanying this report, and the annexed estimates of the cost of constructing the proposed rail-road.

The line selected, as the result of this survey, begins at a point in the Boston and Maine Extension Rail-road, in Malden, four miles from its terminus in the "public square," (known as Haymarket square,) in the city of Boston, and proceeds through the southern border of the South Village in Malden, and thence in a line of little curvature, and over a generally level surface, mostly of meadow land, (and some of it salt meadow,) passing near to the village of Saugus, and crossing Saugus river, to Lynn. Through the village of Lynn the line surveyed is along the northern side of the Salem turnpike, just in the rear of the estates which front on that street.

From Lynn village, the line selected as probably the best adapted to the purposes of the gentlemen who have petitioned for a charter for this line of rail-road, passes near the line of the old Boston and Salem road, keeping the southerly side of the same in the neighborhood of the Paper Factory and the Hermitage, crossing the said road from the southerly to the northerly side, a little east of the Dye Factory in Lynn, passing on the northwesterly side of Brown's Pond, in Danvers, and continuing near the said Boston and Salem road, and on the northerly side of the same to the centre square in the South Village in Danvers, where it will be convenient to have the main *station* for the accommodation of the business of that neighborhood. This square is the only considerable street crossed by the rail-road in Danvers village. It crosses the South Reading road about a mile northwesterly of the village ; but at this intersection, as well as at the crossing of the Boston and Salem road at "Mansfield's Corner," and at the Dye Factory in Lynn, it will be convenient to have a road bridge over the rail-road. I propose, also, that the travel on the Newburyport turnpike should pass over the rail-road by a bridge. These bridges are provided for in the accompanying estimates.

From Danvers to Salem the line is along the borders of the Creek, which it crosses several times, passing along an extensive line of tanneries, (which it will benefit rather than incommode,) crossing a small point in Carltonville, and thence across the Creek into Salem, and terminating on the margin of Back Bay, near the Court House. The whole length of line, from the Maine Extension Rail-road to the Salem terminus, as above described, is thirteen and a half miles, or seventeen and a half miles from Boston.

The line is not only feasible for a rail-road, but presents no difficult features. There are short planes, amounting, in the aggregate, to about four miles, which will average about thirty feet to the mile; between two and three miles will average about twenty feet to the mile; about one mile and a half has a grade of four feet, and the remainder, (five and a quarter miles,) is level. The curves at the station in Danvers and at the point of Carltonville, are of one thousand feet radius; that near the Hermitage, in Lynn, is two thousand feet radius, and that at the junction with the Boston and Maine Extension Rail-road, is twenty-five hundred feet radius. There are no other curves of a less radius than four thousand feet.

There are three places where a small quantity of ledge may be encountered: At Mansfield's Corner, in Lynn; at the west end of the village of Danvers, and at the point of Carltonville. The quantity, however, in either, or in all of these places, cannot be very great. The two last mentioned cuts are each very short, and that portion of the other, where indications of rock appear, is also very short. With these exceptions, the excavations seem to be entirely of loose gravel and sand, and the contingency of rock in these places is believed to be provided for in the estimates.

The annexed estimates are for a single tract road, of the most substantial character, with embankments, fifteen feet wide at the surface of the road bed, cuttings twenty-four feet wide at the surface of the earth bed for the track, and both having side slopes of *one and a half to one*, with two feet of top dressing of free gravel, and stone masonry for all the culverts, cattle guards, farm passes, and road and field bridges.

There will be three pile bridges. The *first*, at Malden, of seventy-five or a hundred feet in length; the *second*, at Saugus river, five hundred feet in length, and the *third*, at the crossing at Back river, in Salem—this may be one or two hundred feet in length, as shall be found best after a more particular examination. The rest of the water on the line of the road, with the exception of short bridges, of a single span, and culverts, I propose to fill solid. The *superstructure* estimated for in the wrought iron T rail of fifty-six pounds to the yard, laid on chestnut sleepers, (supported over the marshes and high embankments by undersils of eight inches by three,) and secured by the cast iron *clasp chair*.

The estimate contains nothing for *land* or *damages* to estates. These items, except in the villages of Lynn and Danvers, and in the approach to Salem, must be comparatively inconsiderable, as very little valuable land will be taken, and no estates, that I am aware of, will be badly cut or incommoded by the location of the

APPENDIX.

xv

proposed road. The most of the land through which the line passes, can never be available for any but farming purposes, and very little of this is under a high state of cultivation. With the exception of the village of Lynn, there is no place on the line where an orchard or garden of any kind, is entered by the proposed road.

With these explanations, the following estimate of the cost of the road are respectfully submitted by

JAMES HAYWARD.

ESTIMATES.

Danvers to Malden.

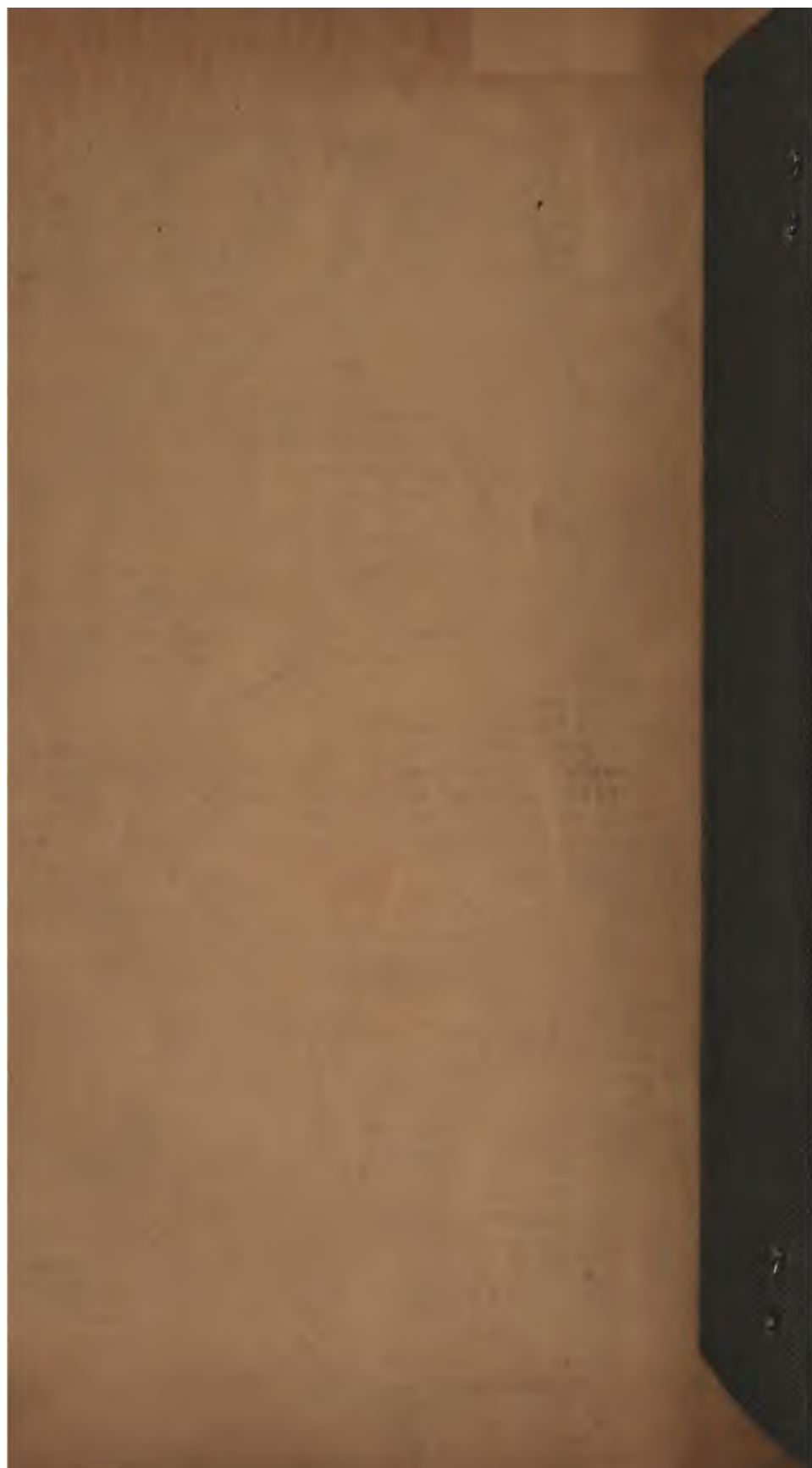
Earthwork, 175,000 yards, at 15 cts.	-	-	-	\$26,250 00
Bridge masonry, 1,800 yards, at \$3,	-	-	-	5,400 00
Culvert " 1,745 " " \$2,	-	-	-	3,490 00
Three box masonry, in marsh,	-	-	-	300 00
Pile bridges, 600 feet, at \$12,	-	-	-	7,200 00
Wood work of road bridges,	-	-	-	900 00
Fencing ten miles of road, at \$640,	-	-	-	6,400 00
Fourteen signs and crossings,	-	-	-	1,260 00
Superstructure, at \$7,625 per mile,	-	-	-	91,262 50
Fixtures at Malden,	-	-	-	4,000 00
" " Saugus,	-	-	-	500 00
" " Lynn,	-	-	-	2,000 00
" " Danvers,	-	-	-	5,000 00
Three engines,	-	-	-	18,000 00
Eight passenger cars,	-	-	-	14,400 00
Two package "	-	-	-	1,600 00
Twenty merchandise cars,	-	-	-	10,000 00
Engineering, contingences, &c.,	-	-	-	19,896 00
				<hr/>
				\$218,358 50

Danvers to north bridge, Salem.

Earthwork, 69,798 yards, at 16 2-3 cts. per yard,	-	\$11,633 00
Bridge masonry, 900 yards, at \$3.00 per yard,	-	2,700 00
Culvert " 200 yards, at \$2.00 per yard,	-	400 00
Eight hundred feet of slope wall, at \$1.25 per foot,	-	1,000 00
Three box culverts, at \$150.00 each,	-	450 00
Seven thousand yards of sea wall,	-	11,375 00
Pile bridging, 100 feet, at \$12.00 per foot,	-	1,200 00
Wood work of road bridge,	-	400 00
Six signs, two crossings,	-	540 00
Superstructure, 1½ miles, (including side track,)	-	13,343 75
Fixtures at Salem,	-	3,000 00
Turn table, not in the above,	-	800 00
Engineering, contingencies, &c.	-	4,684 25
		<hr/>
		\$56,526 00*

* It will be perceived by adding up the above figures, that there is an error of \$5,000 in the footing, and that it should be \$51,526 00. This error has heretofore escaped notice.





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